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REPORT

OF THE

ROYAL COMMISSION TO
INVESTIGATE

THE

PENAL SYSTEM OF CANADA

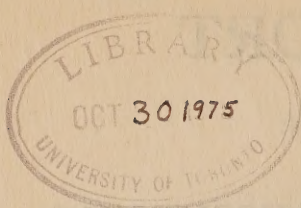


OTTAWA

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1938



**ROYAL COMMISSION TO INVESTIGATE
THE PENAL SYSTEM OF CANADA**

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TABLE OF CONTENTS

PART I

| | PAGE |
|--|------|
| CHAPTER I—OUTLINE OF INVESTIGATION..... | 1 |
| CHAPTER II—GENERAL PRINCIPLES OF PENOLOGY AND CRIMINOLOGY..... | 7 |
| CHAPTER III—PENAL INSTITUTIONS IN CANADA | |
| Federal Institutions..... | 12 |
| Provincial Institutions..... | 16 |
| General Characteristics of Canadian Penitentiaries..... | 22 |
| CHAPTER IV—PENITENTIARY BRANCH | |
| <i>Policies—</i> | |
| Central Authority..... | 25 |
| Inspections of Penitentiaries..... | 32 |
| Dismissal of Officers..... | 33 |
| Accounting Policies..... | 40 |
| <i>Staff—</i> | |
| Superintendent..... | 43 |
| Inspectors..... | 52 |
| CHAPTER V—PRISON DISCIPLINE | |
| Disciplinary Objectives..... | 54 |
| Punishment for Prison Offences..... | 58 |
| Corporal Punishment in Penitentiaries..... | 60 |
| Trial for Prison Offences..... | 61 |
| Segregation..... | 65 |
| Other Rules and Regulations..... | 66 |
| CHAPTER VI—RIOTS AND DISTURBANCES..... | 69 |
| CHAPTER VII—USE OF FIREARMS IN PENITENTIARIES..... | 74 |
| CHAPTER VIII—PRISON MANAGEMENT | |
| Classification..... | 100 |
| Grades and Merit System..... | 106 |
| Depressing Effects of Confinement..... | 109 |
| Recreation..... | 109 |
| Education..... | 114 |
| Medical Services..... | 120 |
| Religious Services..... | 121 |
| CHAPTER IX—PRISON EMPLOYMENT | |
| Conditions of Labour..... | 126 |
| Industrial Employment..... | 130 |
| Farm Employment..... | 136 |
| Prison Pay..... | 139 |
| CHAPTER X—WOMEN PRISONERS..... | 145 |
| CHAPTER XI—TREATMENT OF INSANE PRISONERS..... | 149 |
| CHAPTER XII—TREATMENT OF DRUG ADDICTS..... | 159 |
| CHAPTER XIII—INTERNATIONAL STANDARD MINIMUM RULES..... | 162 |
| CHAPTER XIV—CRIMINAL LAW AMENDMENTS..... | 167 |

PART II

| | | |
|---------|---|-----|
| CHAPTER | XV—PREVENTION OF CRIME | |
| | Police Services..... | 173 |
| | Statistical Information..... | 174 |
| | Prevention of Juvenile Delinquency..... | 175 |
| CHAPTER | XVI—JUVENILE COURTS, FAMILY COURTS, AND TRAINING SCHOOLS..... | 182 |
| | Juvenile Courts..... | 190 |
| | Family Courts..... | 192 |
| CHAPTER | XVII—YOUNG OFFENDERS..... | 195 |
| CHAPTER | XVIII—RECIDIVISM..... | 211 |
| CHAPTER | XIX—HABITUAL OFFENDERS..... | 218 |
| CHAPTER | XX—CONDITIONAL RELEASE | |
| | Adult Probation..... | 225 |
| | Remission..... | 231 |
| | Ticket-of-leave..... | 236 |
| | Indeterminate Sentences and Parole..... | 243 |
| CHAPTER | XXI—REHABILITATION ON RELEASE..... | 249 |

PART III

Report on Penitentiaries

| | | |
|---------|---|-----|
| CHAPTER | XXII—DORCHESTER PENITENTIARY..... | 265 |
| CHAPTER | XXIII—ST. VINCENT DE PAUL PENITENTIARY..... | 273 |
| | Laval Buildings..... | 283 |
| CHAPTER | XXIV—KINGSTON PENITENTIARY..... | 287 |
| | Coal Shortages..... | 298 |
| CHAPTER | XXV—COLLIN'S BAY PENITENTIARY..... | 302 |
| CHAPTER | XXVI—WOMEN'S PRISON..... | 312 |
| CHAPTER | XXVII—MANITOBA PENITENTIARY..... | 317 |
| CHAPTER | XXVIII—SASKATCHEWAN PENITENTIARY..... | 322 |
| CHAPTER | XXIX—BRITISH COLUMBIA PENITENTIARY..... | 331 |

PART IV

| | | |
|-------------------|--|-----|
| CHAPTER | XXX—REORGANIZATION OF THE PENAL SYSTEM OF CANADA | |
| | Centralization of Control of Provincial Jails, Reformatories, and Penitentiaries..... | 339 |
| | Appointment of a Prison Commission to Administer Canadian Prisons..... | 342 |
| | Board of Official Prison Visitors..... | 344 |
| | Reconstruction of Personnel and Training of Officers..... | 344 |
| CHAPTER | XXXI—SUMMARY OF RECOMMENDATIONS..... | 354 |
| CHAPTER | XXXII—CONCLUSION..... | 362 |
| APPENDIX | I—INSTITUTIONS VISITED BY THE COMMISSION..... | 365 |
| APPENDIX | II—REPORT ON THE FARMS AT ST. VINCENT DE PAUL, KINGSTON, COLLIN'S BAY, AND SASKATCHEWAN PENITENTIARIES..... | 369 |
| APPENDIX | III—A SPECIAL STATISTICAL STUDY OF RECIDIVISTS IN CANADIAN PENITENTIARIES WHO HAVE OVER TEN CONVICTIONS..... | 387 |
| BIBLIOGRAPHY..... | | 389 |
| INDEX..... | | 409 |

TERMS OF REFERENCE AND APPOINTMENT OF PERSONNEL

P.C. 483

“ 10.

PRIVY COUNCIL CANADA

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on the 27th February, 1936.

The Committee of the Privy Council have had before them a report, dated February 25, 1936, from the Minister of Justice, recommending that the Honourable Joseph Archambault, a Judge of the Superior Court of Quebec, R. W. Craig, Esquire, K.C., Winnipeg, Manitoba, and Harry W. Anderson, Esquire, Journalist, of Toronto, Ontario, be appointed Commissioners under Part I of the Inquiries Act to inquire into and report upon the penal system of Canada, including, but not so as to restrict the generality of the foregoing, the following matters:

1. The treatment of convicted persons in the penitentiaries, covering the investigation and examination of the classification of the institutions;
The classification of offenders;
The construction of penal institutions;
The organization of penal departments;
The appointment of staffs;
The treatment to be accorded to the different classes of offenders, including corporal and other punishment;
The protection of society;
Reformative and rehabilitative treatment;
Employment of prisoners;
Prison labour;
Remuneration;
The study of international standard minimum rules, and other subjects cognate to the above.
2. The administration, management, discipline and police of penitentiaries.
3. Co-operation between governmental and social agencies in the prevention of crime, including juvenile delinquency, and the furnishing of aid to prisoners upon release from imprisonment.
4. The conditional release of prisoners, including parole or release on probation, conditional release under the Ticket of Leave Act, and remission generally.

The Minister further recommends that the said Honourable Joseph Archambault be Chairman of the Commissioners, and that the Commis-

sioners be authorized to engage the services of such technical advisers or other experts, clerks, reporters and assistants as they may deem necessary or advisable.

The Committee concur in the foregoing recommendations and submit the same for approval.

(Signed) E. J. LEMAIRE,
Clerk of the Privy Council."

P.C. 2424

" 12.

PRIVY COUNCIL
CANADA

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on the 17th September, 1936.

The Committee of the Privy Council have had before them a report, dated 15th September, 1936, from the Minister of Justice, stating:

That by Order in Council, P.C. 483, of the 27th February, 1936, the Honourable Mr. Justice Joseph Archambault, a Judge of the Superior Court of the Province of Quebec, R. W. Craig, Esquire, K.C., of Winnipeg, Manitoba, and Harry W. Anderson, Esquire, Journalist, of Toronto, Ontario, were appointed Commissioners under Part I of the Inquiries Act to inquire into and report upon the penal system of Canada, as more particularly set out in the said Order.

That since the date of the said Order Commissioner Anderson has died.

The Minister, therefore, recommends that J. C. McRuer, Esquire, K.C., of Toronto, Ontario, be appointed a member of the said Commission in the room, place and stead of the late Harry W. Anderson.

The Committee concur in the foregoing recommendation and submit same for approval.

(Signed) E. J. LEMAIRE,
Clerk of the Privy Council.

The Honourable,
The MINISTER OF JUSTICE."

REPORT

OTTAWA, April 4, 1938.

The Right Honourable ERNEST LAPOINTE, K.C., M.P., P.C., Minister of Justice, Ottawa.

SIR, We have the honour to present you with the Report of the Royal Commission to Investigate the Penal System of Canada.

CHAPTER I

OUTLINE OF INVESTIGATION

About the time the Order in Council of February 27, 1936, was passed, the Chairman of the Commission, Mr. Justice Joseph Archambault, met with two serious accidents, which incapacitated him for several months. On the 28th of April, 1936, the Commission sustained a severe loss by the sudden death, at Toronto, of Commissioner Harry W. Anderson. Mr. Anderson, who was former managing editor of the *Toronto Globe*, had for years been a keen student of criminology and penal reform, and his untimely death was a great blow to his fellow Commissioners. On the 17th of September, 1936, the second Order in Council was passed, appointing J. C. McRuer, K.C., of Toronto, as Commissioner in place of Mr. Anderson. After holding several preliminary meetings in Ottawa, the Commission began its investigations of penal institutions and penal systems early in October, 1936. This continued until December 15, 1937, when the Commission held its last sitting for the purpose of taking evidence.

A number of commissions have been appointed in connection with Canadian penitentiaries. In 1832, a commission was appointed by the Legislature of Upper Canada, which recommended the construction of what is now known as Kingston Penitentiary. In 1848, a commission was appointed to investigate certain complaints at Kingston Penitentiary with a view to making constructive recommendations concerning that institution. In 1876, a commission was appointed by the federal Government to report on prison labour and the remuneration of officers in Canadian penal institutions. In 1913, a commission, composed of George M. MacDonnell, K.C., of Kingston, Frederick Etherington, M.D., of Kingston, and Joseph Patrick Downey, of Orillia, was appointed to investigate, and report upon, the conduct and administration of penitentiaries, and particularly the conduct of the officers of Kingston Penitentiary.¹ In 1920, a committee, composed of O. M. Biggar, K.C., of Ottawa, W. F. Nickle, K.C., of Kingston, and P. M. Draper, Esquire, of Ottawa, was appointed by the Minister of Justice, under the Penitentiary Act, to consider and advise in regard to a general revision of the penitentiary regulations.²

¹ This Commission will be referred to in the present report as "The 1913 Commission."

² This Commission will be referred to in the present report as "The 1920 Committee."

The 1913 Commission and the 1920 Committee brought in number of valuable recommendations and suggestions, which the present Commissioners have studied with care.

The work entrusted to the present Commission was twofold: first, to investigate the operations of Canadian penitentiaries; second, to make a thorough study of the problems mentioned in the reference. To carry out this latter task it was necessary for the Commission to visit all the Canadian provinces, and other countries, in order to study their penal systems and discuss various problems with their prison officials and penologists.

The subject of capital punishment and methods of execution have not been dealt with in this report because they were not mentioned in the terms of the reference. During the sessions of 1937, a parliamentary committee was appointed by the federal Government to inquire into the different methods of carrying out the sentence of death. This Committee, after having examined witnesses and studied the various methods now in use, brought in a report recommending that no change should be made in the present method. Reference has been made to this matter only because, at different times, it has been stated in the press and elsewhere that the Commission would report on it.

Investigation of Canadian Penitentiaries

At the outset, your Commissioners decided to give all the inmates and officers of the various penitentiaries the fullest opportunity to make any representations they wished, pertaining either to their own welfare or to conditions existing in the different institutions, and, in order to ensure this by removing any fear as to the consequences which might result from freedom in expressing their views, the Commission decided not to engage outside counsel, that the sittings should be held *in camera*, and that, while inmates were giving evidence, no penitentiary officer would be permitted to attend. At each institution visited by the Commission a notice was posted inviting every officer and inmate to appear before the Commission under these conditions. By adopting this method, your Commissioners believe that the confidence of both officers and inmates was gained, and that, as a result, information, which otherwise might have been withheld, has been obtained. This method has also deterred witnesses from seeking publicity, and has prevented the publication of distorted reports that would have conveyed erroneous impressions.

Your Commissioners have visited all the federal penitentiaries: Dorchester, St. Vincent de Paul, "The Laval Buildings," Kingston, the Women's Prison, Collin's Bay, Manitoba, Saskatchewan, and British Columbia. At each institution a thorough inspection was made of all the buildings and the various departments therein, and your Commissioners were able to observe the daily routine of the penitentiaries in all its phases.

The Commission held numerous private hearings outside the penitentiaries, at which many judges, magistrates, ex-officers, police officers, ex-inmates, and others conversant with, or interested in, the problems

confronting the Commission appeared. From all these sources much valuable information was obtained.

In each province of the Dominion public meetings were held, and notice of these appeared in the local newspapers. Societies and associations were invited to send representatives to express their views on any of the subjects mentioned in the reference. Such meetings were held at Charlottetown, Halifax, Saint John, Montreal, Toronto, Kingston, Ottawa, Winnipeg, Regina, Edmonton, and Vancouver. These meetings were well attended, particularly by representatives of the various churches, prisoners' aid societies, and other social organizations.

In the fall of 1937, after the penitentiaries had been inspected, and public and private sittings had been held in the above mentioned cities, the Commission met at Ottawa to hear the evidence of the Superintendent of Penitentiaries, the three inspectors, the chief engineer, and the head of the Remission Branch. The Deputy Minister of Justice, W. Stuart Edwards, K.C., and the Under-Secretary of State, E. H. Coleman, K.C., also appeared before the Commission.

Study of Provincial Prison Systems

The Commission, having been appointed by the federal Government, had no jurisdiction to investigate or report upon provincial institutions. However, a number of the subjects included in the reference, such as juvenile delinquency and the protection of society, were obviously subject to both federal and provincial jurisdiction. Moreover, the factor that determines whether a prisoner shall be confined in a federal or provincial institution is nothing more than the length of his sentence. Both systems, therefore, are inextricably linked together, and your Commission could only arrive at definite conclusions regarding such matters by examining the methods of detention and reformation in the provinces, and by discussing common problems with the provincial authorities. Accordingly, the Commission held conferences with the respective attorneys-general, or other ministers, of all the provincial governments, and with the officers of their departments. The Commission visited and inspected many provincial jails, reformatories, and prison farms. A list appears in Appendix I, showing the provincial institutions visited in each province. At each institution the buildings and other offices were inspected, and conferences were held with the wardens and other officers. Memoranda of such visits and conferences have been prepared for the files of the Commission. About fifty provincial institutions were inspected and, in every province, the Commission was received by the responsible ministers, departmental heads, and officers in charge of the various institutions, with the greatest of courtesy, and every facility was granted to enable your Commissioners to obtain the fullest information.

Visits to England and Other Countries

In July, 1937, the Commission proceeded to Europe to study the prison systems of England and Western Europe, particularly the "Borstal System" of England. Shortly after arrival, your Commissioners had the

opportunity of attending the annual Conference of Prison Commissioners of the British Empire, which had been convened by the Home Office, hearing addresses by such outstanding penological authorities as Mr. Harold Scott, C.B., Chairman of the Prison Commission for England and Wales, Alexander Paterson, M.C., Prison Commissioner, and others, and participating in round table discussions with overseas delegates on matters of common interest. Subsequently, your Commissioners had further conferences with Messrs. Scott and Paterson, and with other officers at the Home Office. In addition to inspecting the prisons in the London Metropolitan Area, your Commissioners examined other prisons and Borstal institutions in different parts of England. Nineteen institutions were visited, and, at each, conferences were held with the governors and members of their staffs.

After completing these visits in England, your Commissioners separated, and proceeded individually, or in some cases together, to Scotland, Holland, Belgium, Germany, Switzerland, and France. In all these countries, conferences were held with government officials in charge of the respective prison systems, and visits of inspection were made to the principal penal institutions.

While crossing Canada, the Commission deviated to visit two United States prisons on the Pacific Coast, and three in Minnesota and Illinois, and, in October, 1937, a comprehensive survey was made of a number of institutions in the Eastern United States. In New York City and in Washington, conferences were held with leading prison authorities of the United States, including Sanford Bates (former Director of the United States Federal Bureau of Prisons), his successor, James V. Bennett, Austin H. McCormick, Commissioner of Correction for New York City, officials of the Osborne Association, and other prison officers. In Washington, the Commission conferred with Mr. Stanley Reed, Solicitor General of the United States, Mr. Bryan McMahon, Assistant Attorney General, Mr. Justice Justin Miller, of the District of Columbia Court of Appeal, Judge Arthur D. Wood, Chairman of the Federal Parole Board, and other officials in the Departments of Justice and Labor. Altogether, nineteen institutions were visited and inspected in the United States. Memoranda concerning these are on file in the offices of the Commission.

The above summary indicates the study given to the prison systems of various countries. Your Commissioners have concluded that it would not be wise to include, in the limited space of this report, any detailed description of these systems, but rather that the experiences of other countries should be drawn upon in dealing with the different subjects specified in the order of reference. During the course of its investigation, the Commission visited 113 institutions in 9 different countries. It spent 108 days in the seven Canadian penitentiaries, and there took the evidence of over 1,840 inmates and 200 officers, who appeared and gave evidence under oath. In addition, a large number of inmates in other institutions were interviewed, and over 1,200 letters, briefs, manuscripts, reports, text books, and other documents, were collected. By holding

public and private meetings throughout Canada, your Commissioners have afforded every person or organization in the Dominion an opportunity to appear before the Commission and express their views on any of the subjects mentioned in the reference. In addition to the large number who appeared at these meetings, many more made valuable contributions in writing. Conferences were held with the Governments of each province to discuss matters of common interest, and with judges of the Superior Courts, Juvenile Court judges, police magistrates, and chiefs of police. Your Commissioners believe that, only by making this thorough inquiry, could they properly execute the important task entrusted to them by the terms of the reference.

Appendix I contains a list of institutions visited by the Commission. A bibliography is appended, which lists the books and other records of a non-confidential character in the possession of the Secretary.

Your Commissioners desire to place on record their deep appreciation of the valuable assistance received from private individuals and those occupying official positions, both in Canada, and in other countries visited by them.

In England, Mr. Harold Scott, C.B., Chairman of His Majesty's Prison Commission for England and Wales, and Mr. Alexander Paterson, M.C., one of His Majesty's Prison Commissioners, spared no effort to enable your Commissioners to obtain full information. Mr. Paterson, particularly, who is recognized as one of the world's foremost penologists and the outstanding authority on the "Borstal System," despite his own heavy official duties, spent generously of his time conferring with the Commission and arranging the necessary details of tours of inspection through England, Scotland, and on the continent of Europe. In Holland, Dr. W. P. Caudri, of the Department of Justice, conferred with visiting members of the Commission and arranged for visits to the various Dutch institutions. In Belgium, Maurice Poll, Directeur du Cabinet, and Dr. Paul Cornil, Inspector General of Prisons, accompanied members of the Commission on visits to the various institutions and contributed much to assist the Commission. In France, the Chairman of your Commission had conferences with Mr. Rene Andrieux, Director of the French Penitentiary Service, and Mr. Breton, Inspector General of Prisons, both of whom rendered the greatest assistance. A member of the Commission, who visited Germany, was received by M. Emil Muller, Director of the High Court of Justice, and had the privilege of discussing different matters in Switzerland with Dr. J. Simon Van der Aa, Secretary General of the International Penal and Penitentiary Commission. On their final visit to the United States, your Commissioners were given the fullest co-operation and assistance by Mr. Sanford Bates, former Director of the Federal Bureau of Prisons, and his successor, Mr. James V. Bennett. In New York, Mr. Bates, who is now Executive Director of the Boys' Clubs of America, Inc., not only arranged the itinerary of your Commissioners and indicated the institutions to be visited, but also arranged conferences with many of the leading prison authorities in the United

States, including Austin H. McCormick, Commissioner of Prisons for New York City, F. Lovell Bixby and William J. Cox, of the Osborne Association, and E. R. Cass, Secretary of the American Penal Congress. These all made valuable contributions, based on their long experience in prison work in the United States. In Washington, Mr. Bennett arranged conferences with his departmental officers, and with other officials and citizens, and gave generously of his own time in conferring with the Commission. In Trenton, New Jersey, your Commissioners had the privilege of meeting Dr. William J. Ellis, Director of the Department of Institutions and Agencies for the State of New Jersey, and his assistants, who left nothing undone to make our visit most profitable.

CHAPTER II

GENERAL PRINCIPLES OF CRIMINOLOGY AND PENOLOGY

Introduction

Your Commission, having been appointed to inquire into the penal system of Canada, and to make a report of its findings and recommendations, found it imperative, that, in order to estimate thoroughly the value of the present system, and to draw from the systems of other countries such policies as would tend to the betterment of our own, a study of the principles of penology and criminology should be made. It is obvious that, within the narrow scope of a preamble, these principles cannot be discussed in a complete or adequate manner, and that the information gathered from numerous visits to penal institutions, conferences with lifelong students of the matter, and the reading of many books and articles, which have built up a foundation for our investigations and conclusions, cannot be recited here. At the same time, a very brief statement of these principles, or a general outline of them, is necessary for the understanding of the following chapters.

Criminology

Criminology is the body of knowledge regarding crime as a social phenomenon. It includes within its scope the processes of making laws, of breaking laws, and of reacting towards the breaking of laws. The objective of criminology is the development of a body of general and verified principles, and of other types of knowledge, regarding this process of law, crime, and treatment.¹

Crime, from the point of view of social psychology, is an action which is antagonistic to the solidarity of the group that the individual considers as his own. The legal definition of crime is a violation of the criminal laws, or of a usage which gives rise to the exercise of a penal sanction.² The criminal law is a body of specific rules regarding human conduct towards the state and the individual, which has been promulgated by the authorities, and which applies uniformly to all members of the classes to which the rules refer, and which are enforced by punishment administered by the state.

Penology

Penology is the science dealing, first, with potential criminals, second with the treatment of criminals in prisons, and, third, with the after-care of those who have been released from prisons. The difficulty in laying down principles on penology is increased by the fact that it is still the subject of profound and scientific inquiry, and of much controversy, and that, at the present time, many of its problems appear to be prac-

¹ Sutherland—Principles of Criminology, Lippincott, Chicago (1924).

² Thomas—The Polish Peasant, N.Y., 1927.

tically insoluble. We believe, however, that we are on safe ground in stating that no system can be of any value if it does not contain, as its fundamental basis, *the protection of society*.

Protection of Society

In seeking this fundamental basis, the following principles should be observed:

- I. Means should be devised, and adequate policies adopted, which would tend to prevent crimes from being committed;
- II. A system should be evolved, and put into force, which would prevent the repetition of crime, bring about the reformation and rehabilitation of those who have committed crimes, and take care of those who have been released from prisons;
- III. Measures should be enacted that would debar habitual criminals from the opportunity to continue the commission of crimes.

I. Prevention of Crime

- (a) It is of the utmost importance that preventive action should be taken to keep children and adolescents from their first steps in a criminal life. This can best be accomplished through the influence of the home, by means of church and school education, through the agencies of clubs, children's aid societies, etc., by the judicious use of probation, the work of the Juvenile Courts, and the maintenance of separate training schools, which would prevent contamination of the young by association with experienced criminals. The system must start at the source, and fight the cause before the effect. It is admitted that, once a child or youth has had experience of prison, his subsequent reformation is extremely doubtful.
- (b) For those who have infringed the law there should be swift detection and sure apprehension through the operation of an honest and well-trained police force. This should be followed by speedy trials, debarred of unnecessary legal technicalities, presided over by impartial and fearless judges who are immune from political influences. Swift and sure punishment is a powerful deterrent for those who have never been arrested (about 96 per cent of the population) and, although to a less extent, for the remaining 4 per cent.

In spite of the theory advanced by those who contend that punishment, as a deterrent, has been a failure—a theory which might be true in a certain sense if punishment were not accompanied by real efforts at reformation—it is a fact that the fear of being swiftly caught and surely punished has prevented, and will prevent, the commission of crime by those who would be, or are, tempted to become criminals. Statistics demonstrate that, where there has been a relaxation in the swift detection, apprehension, and punishment of the criminals, crime has increased.

II. *Prevention of the repetition of crime, the reformation of those who have committed crime, and the after-care of those who have been released from prisons*

- (a) It is a matter of common knowledge that, in early days, the punishment of criminals was a matter of personal revenge. Later, the state became responsible for its administration, and it was used as a deterrent, and as atonement to society. In England, as late as 1865, Sir Godfrey Lushington, who was for nine years permanent Under-Secretary of State at the Home Office, expressed the opinion that, in its nature, a prison could not be a reformatory, that it was not possible to introduce reformatory influences into it, and, therefore, that the prison system should have for its object punishment and deterrence alone. Now, however, it is admitted by all the foremost students of penology that the revengeful or retributive character of punishment should be completely *eliminated*, and that the deterrent effect of punishment alone, while still of some value to prevent those who have never been arrested from committing crime, is practically valueless in so far as it concerns those who have been before, or who are now, confined in prisons or penitentiaries.
- (b) There are three classes of prison inmates: the accidental or occasional criminal, the reformatory criminal, and the habitual or persistent offender. Those included in the first two categories always return to freedom, those of the last category, with few exceptions, should never be set at liberty. The great majority of prisoners will be called upon at some time to live again the ordinary life of a free man. Therefore, entirely apart from humanitarian grounds, and from a purely economic point of view,¹ and for the eventual benefit of society, the task of the prison should be, not merely the temporary protection of society through the incarceration of captured offenders, but the *transformation* of reformatory criminals into law-abiding citizens, and the prevention of those who are accidental or occasional criminals from becoming habitual offenders.

The accidental or occasional criminal does not necessarily need to be reformed. Even though unusual circumstances may have caused this type of offender, who had always been a law-abiding citizen before he committed this crime, to be guilty of infringing the law, it is necessary that he should be punished. After the expiration of his sentence, however, he will return to normal life as a law-abiding citizen, unless the effect of his sojourn in jail has embittered him against society, or his contact with confirmed criminals has sullied his soul and conscience.

The reformatory criminal, the youthful offender, the first offender, or even the second or third offender will not be reformed if, during his term in prison, his spirit has been broken, his habit of industry (if it ever

¹ Report of the Superintendent of Penitentiaries, 1937, gives the cost of maintenance per prisoner as \$744.

existed) suppressed, and his morals corrupted by prison associations. He has been guilty of a crime, and it is inevitable and just that he should suffer, but society should not weaken its structure, nor incur large and excessive expenditure, by turning him out no better, or even worse, than when he entered a penal institution.

The process of penal treatment for the two first named categories of criminals, and to a certain, but less, extent for the last, must be directed unceasingly to the advancement of the individual's personal and emotional rehabilitation. In future chapters of this report, your Commissioners will endeavour to indicate, what, in their opinion, is necessary for the successful application of this treatment. Here, it is noted only that, without proper *classification and segregation*, without education, without effective means of understanding the offender, the motivation of his offence, and his basic capacity for effective citizenship, without physical and mental exercise, moderate recreation, and above all, without *humane approach*, any treatment is bound to fail.

- (c) Even when the treatment has been successful, and the prisoner has been discharged, completely or reasonably reformed, eager to obey the law, to live a respectable life, and never to return to jail, if he is simply turned adrift outside the prison gate in a world that has changed, and in which he is fearful of bearing the recognizable signs of his stay in prison, if no one comes to his rescue, if he is unsuccessful in finding work to provide for himself and his family, there will be but one inevitable result; all the painstaking efforts of a sound and proved system will have been of no avail, and hunger and desperation will drive him back to a penal institution. It has often been said that an offender's punishment begins, not when he goes into prison, but when he comes out of it. The duty, and the undoubted interest, of the state is to provide for the discharged man, whether directly, or through the channel of subsidized prisoners' aid societies, and, if the state does not fulfil that duty, all the expenditures, and all that has been accomplished towards the rehabilitation and reformation of the prisoners within the institutions, will go for naught.

The public, too, must be humanized. It is a truism that the best system of rehabilitation, and the most energetic endeavours of the state, or of associations designed to aid the reformed prisoner on discharge, can be thwarted by the reception meted out to him by the public. The responsibility for recidivism rests as much upon the shoulders of the public as upon legislation or the failure of the state to furnish aid. A very large number of those in prisons are not much worse than many outside who have succeeded in remaining just within the law, or have broken it though undetected, or who have had their freedom purchased at the price of restitution made by friends or relatives.

III. *A system which will debar habitual criminals from opportunities to continue the commission of crimes*

The Departmental Committee on Persistent Offenders, which was appointed by Great Britain in 1932, reports that habitual offenders cannot effectively be dealt with by sentences imposed only for their specific offences. This principle was also recognized by the Gladstone Committee on Prisons, as long ago as 1895: "To punish the persistent offenders for the particular offences in which they are detected is almost useless and a new form of sentence should be placed at the disposal of the judges by which these offenders might be segregated for long periods of detention. . . ." These criminals will run the risk of comparatively short sentences almost with indifference. They should not be given further opportunity to commit crime. They should not be allowed to contaminate other prisoners who have not yet embraced a life of crime. Habitual offenders, who have definitely given themselves to careers of serious crime, should have a special maximum security institution provided for them.

As stated at the outset, this preamble is but a very short outline of what your Commissioners believe to be the outstanding principles and policies of an ideal, yet practical, penal system. The principles here outlined will be developed in future chapters, and in the recommendations of the Commission.

CHAPTER III

PENAL INSTITUTIONS IN CANADA

FEDERAL INSTITUTIONS

At the present time there are seven federal penitentiaries, namely:

Dorchester Penitentiary, serving the provinces of Nova Scotia, New Brunswick, Prince Edward Island, and the Magdalen Islands;

St. Vincent de Paul Penitentiary, including Laval, serving the province of Quebec, excepting the Magdalen Islands;

Kingston Penitentiary, including the women's prison, both of which are situated at Portsmouth, serving the province of Ontario, excepting that part lying west of the meridian of 85 degrees 20 minutes west longitude;

Collin's Bay Penitentiary, situated near Kingston, also serving the province of Ontario, excepting that part lying west of the meridian of 85 degrees 20 minutes west longitude;

Manitoba Penitentiary, serving the province of Manitoba, that portion of the province of Ontario lying west of the meridian of 85 degrees 20 minutes west longitude, and all that part of the territories of Canada situated east of the province of Saskatchewan and the one hundred and second west meridian;

Saskatchewan Penitentiary, serving the provinces of Alberta and Saskatchewan, and all that part of the territories of Canada, except the Yukon Territory, situated west of the one hundred and second west meridian;

British Columbia Penitentiary, serving the province of British Columbia.

Each of these institutions is maintained as a prison for the confinement and reformation of persons lawfully convicted of crime before the courts of criminal jurisdiction in the province, territory, or district served by it, when the convicted person has been sentenced to confinement for life, or for any term not less than two years.

Dorchester Penitentiary

This institution is situated near the village of Dorchester, New Brunswick, about twenty-eight miles from the city of Moncton. The land was purchased in 1875, and the institution was opened about 1880.

The prison property consists of 1,209 acres. Much of this is bush land, but the balance is used for farming purposes. The area of the present prison yard is now 10·5 acres, but, when the wall extensions now being made are completed, will be 15·8 acres.

In addition to the cell blocks, buildings inside the wall include store-rooms, an ice house, the dome, workshops, a garage, a boiler room, four towers, a carriage and harness shed, and an implement shed. At the present time a new cell block is under construction, which, when completed,

will have cell accommodation for 232 inmates. Outside the wall, there is an administration building, storage buildings, pump-houses and tanks, water reservoirs, and a number of barns and out-houses for use in connection with farming activities. In addition to the residences of the warden and the deputy wardens there are a large number of other houses for the officers and guards.

At present, the cell accommodation consists of 476 ordinary cells, 18 segregation cells, and 31 hospital cells. The average population for the past six years has been 421, and, on November 30, 1937, there was a staff of 107.

St. Vincent de Paul Penitentiary

This institution is situated on the north bank of the Back river, in the village of St. Vincent de Paul, Quebec, about eleven miles from the city of Montreal. Prior to 1873, when it became a federal prison, it was used as a provincial reformatory for boys. Since then, numerous new buildings have been constructed, and additions made to old ones. The penitentiary grounds have also been greatly enlarged.

About 1929, it was decided to build a separate institution for youthful and first offenders and, between 1929 and 1932, land for this purpose was purchased, immediately east of the present buildings. Excavation was started in 1930 and, at the present time, in addition to certain temporary buildings, a stone shed, boiler house, and two other permanent buildings, as well as four towers and a wall are under construction.

The grounds of St. Vincent de Paul Penitentiary contain 779 acres, of which 12 acres are within the present walls. A total of 24.8 acres will be enclosed within the walls of the Laval institution when it is completed. The remaining acreage consists principally of farm lands and stone quarries.

The buildings inside the walls, about 35 in number, include the dome, eight cell blocks, store-house, a hospital, a keeper's hall, workshops, a library, school, kitchen, chapels, boiler room, barber shop, stone crusher plant, five towers, a stable, and a shed. The buildings outside the walls include the administration building, the warden's residence, houses for officers, store-rooms, an officer's clubhouse, a garage, septic tank, piggery, water tank, pump and filtration plant, barns, and other outhouses.

The cell accommodation at St. Vincent de Paul is composed of 1,100 ordinary cells, 39 segregation cells, and 23 hospital cells. The new segregation cell block, when completed, will contain 24 additional cells. The average prison population for the past six years has been 1,011, and, on November 30, 1937, there was a staff of 210.

Kingston Penitentiary

Kingston Penitentiary is situated on the north shore of Lake Ontario near the city of Kingston, Ontario.

In 1832, money was voted by the Legislative Assembly of Upper Canada for the establishment of a penitentiary near Kingston. Land was purchased in the following year, and the construction of the first building,

the original south wing, was commenced. In 1840, after the passing of the Act of Union, this institution became a penitentiary for both Upper Canada and Lower Canada. When the British North America Act was passed, in 1867, all penitentiaries were placed under the jurisdiction of the federal Government, and Kingston Penitentiary became a federal institution administered by the Department of Justice.

From time to time since its inception, new buildings have been constructed, and old buildings altered and remodelled to meet changing conditions. One important addition was made in 1925, when it was decided to build a separate prison for females, outside the walls of the older institution. The new prison, which is adjacent to Kingston Penitentiary, was completed and opened in 1934. All females sentenced to a penitentiary term in Canada are confined in this institution. At present, it is administered as a branch of Kingston Penitentiary, under the direction and supervision of the warden of that penitentiary, but it is in charge of matrons and a female staff.

A new wall is now under construction at Kingston Penitentiary, which, when finished, will add about three acres to the enclosure. The grounds of the institution comprise 375·8 acres, of which 13·3 acres are inside the present main walls. Six acres are inside the walls of the Women's Prison, and the balance include the farm, quarries, dockyard, and residential grounds.

There are about thirty-seven buildings within the walls of the institution. The principal ones are the dome, six cell blocks, a keeper's hall, a hospital, a kitchen, six workshop buildings, five towers, two gates, a boiler house, pump house, and different offices. Included in one or other of these buildings, are the chapels, library, and schoolroom. The principal buildings outside the walls are the administration building, the warden's residence, the residences of the deputy warden, chaplains, and other officers, a pump house and filtration plant, a water tower, and a storage building. There are also a number of buildings in connection with the farm and quarries, and on the dock.

All the buildings in the Women's Prison are within its walls. The two main structures are the administration building, which contains the matrons' living quarters, the hospital, the chapels, and the cell block, which includes the laundry and sewing rooms.

Kingston Penitentiary has cell accommodation for 805 inmates. The average population for the past six years has been 857, and, on November 30, 1937, there was a staff of 180. The Women's Prison has cell accommodation for 100. Its average population since its construction has been about 40, and the staff consists of 6 female officers.

Collin's Bay Penitentiary

Collin's Bay Penitentiary is situated on the north shore of Lake Ontario, a few miles west of the city of Kingston. The land was purchased about 1930, and comprises 880·8 acres. When the walls now under construction are completed, the enclosed area will be 27·6 acres.

At first a number of temporary buildings were erected to house the prisoners employed on construction work. Two permanent cell blocks have now been completed, and the administration building, kitchen, four towers, and wall, all of a permanent nature, are under construction. There are also permanent residences for the warden, deputy warden, chief keeper, and farm instructor, as well as a number of buildings for use in connection with the farm and quarries.

Collin's Bay Penitentiary now has 260 ordinary cells, 6 segregation cells, and 20 hospital cells. These last are located in a temporary building.

The average population for the past five years has been 184, and, on November 30, 1937, there was a staff of 97.

Manitoba Penitentiary

Manitoba Penitentiary was opened about 1875. It is situated 16 miles north of the city of Winnipeg, Manitoba. The property consists of 1,100 acres, of which 8 acres are now inside the walls. When the new wall extension has been completed, this will be increased to 24 acres.

The buildings inside the walls include the main dome and central hall, four cell blocks, a main shop, the dome, workshops, a boiler room, garage, power house, four towers, and a gate. There are also a school, chapels, and a library. A new fresh water tank and wells are in course of construction. The buildings outside the walls are the administration buildings, still under construction, a septic tank, elevated tank, stable, barns, a green house, piggery and slaughter house, a root house, and several other smaller buildings. There is also a warden's residence, and about thirty houses for officers and guards.

The cell accommodation consists of 464 ordinary cells, 32 segregation cells, and 8 hospital cells. The average population for the last six years has been 377, and, on November 30, 1937, there was a staff of 100.

Saskatchewan Penitentiary

Saskatchewan Penitentiary is situated on the outskirts of the city of Prince Albert, Saskatchewan. The prison was opened in May, 1911. Unlike other Canadian penitentiaries, all buildings at the Saskatchewan Penitentiary are constructed of brick instead of stone.

The main buildings within the walls of the institution are the main dome, the north wing, four cell blocks, a hospital, workshops (including two under construction), storage buildings, a boiler house, four towers, two gates, an underground water reservoir, a stable, and a granary. The buildings outside the walls include the administration building, a piggery, sheds and root houses in connection with the farm, green house, and the residences of the warden and the deputy warden,

There are 1,826.7 acres of land attached to the institution, of which 24.8 acres are inside the walls. Practically all the rest of the land, with the exception of the portion attached to the residences of the warden and the deputy warden, is available for farming purposes.

The cell accommodation consists of 618 ordinary cells, 13 segregation cells, and 26 hospital cells. On the completion of the new west wing, 29

more cells will be available. The average prison population for the past six years has been 466, and, on November 30, 1937, there was a staff of 105.

British Columbia Penitentiary

British Columbia Penitentiary is situated on the north bank of the Fraser river in the city of New Westminster, B.C., and was first opened in September, 1878.

The land comprises 132·9 acres, of which 10·3 acres are enclosed within the walls. The remaining acreage is available for farming purposes.

The present buildings inside the walls are the dome, a central tower, five cell blocks (including one under construction), the north wing expansion, containing the kitchen and chapel, staff workshops, a boiler room and incinerator, five towers, a storage tank, a green house, and farm buildings. Outside the walls the administration building, water tanks, piggeries, and barn, and the residences of the warden and deputy warden and houses for the officers, are located.

The present cell accommodation consists of 466 ordinary cells, 18 segregation cells, and 6 hospital cells. When the present cell blocks, which are under construction, are completed, an additional 135 cells will be available. The average population for the last six years has been 390, and, on November 30, 1937, there was a staff of 100.

PROVINCIAL INSTITUTIONS

Prisoners, sentenced by the courts to imprisonment for less than two years, must serve their terms in jails or reformatories under the jurisdiction of provincial, county, or municipal authorities. An exception to this will be found in the province of Ontario, where indeterminate sentences enable the courts to send prisoners to such institutions for determinate sentence, up to two years, plus indeterminate sentence, which also may amount to two years. Some of the provinces still retain the old system of city, county, or municipal jails, while others, although still retaining their old jails for prisoners serving comparatively short sentences, have established large centrally located reformatories and prison farms, where the majority of adult prisoners are sent.

Practically all the city, county, and municipal jails were erected many years ago and, from the point of view of reformation, classification, segregation, or providing useful employment, they are entirely inadequate. With very few exceptions, no provision has been made for school-rooms, workshops, libraries, chapels, or other departments which might assist in the reformation of the prisoners, or keep them employed at useful occupations during their imprisonment. In too many of them prisoners are forced to spend all their waking hours in idleness, and young prisoners, in many cases between sixteen and twenty-one years of age, who are perhaps first offenders, must serve their sentences under these conditions, and in company with older prisoners who have served numerous terms of imprisonment in other penitentiaries and jails for more serious crimes. Many of these old buildings are very poorly ventilated and are

without proper sanitary facilities, which makes imprisonment in them detrimental to the health of the inmates.

In other provinces, where reformatories and prison farms have been established, the prisoners serve their sentences under much more satisfactory conditions. The buildings of such institutions are usually of more modern construction, with larger cell accommodation, adequate fresh air and sunshine, and are equipped with modern ventilation and lighting systems. Some of them have modern workshops, where the prisoners are not only kept busy, but often learn useful trades during their terms of imprisonment.

Some institutions possess facilities which enable prisoners to attend school and church, and to obtain healthful physical recreation. Nearly all these have large farms attached to them, on which many of the prisoners are employed for a considerable portion of their terms, and thereby are afforded an opportunity to improve their health and to become acquainted with agricultural methods. Prisoners incarcerated in such institutions have thus some opportunity to better themselves, both mentally and physically, and, when their sentences have been completed, they are better equipped to obtain employment and find a place for themselves in the social system. A large number of county or municipal jails are still in use in the Maritime Provinces, Quebec, and Ontario.

Your Commissioners visited and inspected four of such jails in Nova Scotia, three in New Brunswick, one in Prince Edward Island, one in Quebec, and one in Ontario. Interviews were held with representatives of the Governments, jail officials, judges, and other public officers and representatives of different welfare organizations, the Salvation Army, and the churches. In addition, a study was made of the report of the provincial commission to investigate the jails of Nova Scotia in 1933. From their studies and observations, your Commissioners have concluded that the jail system in the Maritime Provinces is entirely inadequate, and that the manner in which prisoners are treated in those jails can only result in degrading them morally and physically. Generally speaking, the jails are overcrowded, unsanitary, poorly lighted and ventilated, and provide very limited opportunity for outside exercise. There are no facilities for classification or segregation, and no workshops to provide useful employment. There is no government supervision over the jails in New Brunswick, and only a limited supervision in the other two Maritime Provinces. Young offenders and first offenders must spend their sentences under these conditions, indiscriminately mixed with older and hardened criminals, many of whom have long prison records.

Your Commissioners are strongly of the opinion that a central prison farm for the three Maritime Provinces should be established without further delay. Such an institution, if properly organized, would eradicate many of the evils pertaining to the present system. Until this can be done, however, the respective provincial Governments should exercise a more strict supervision and control over the present jails.

In the provinces of Ontario and Quebec, jails are either under the direct control of the provincial Governments, or under their strict super-

vision and regulation. Very few prisoners are kept for long in such institutions. Those serving sentences of more than a few months are sent to the larger reformatory-type prisons. Many of the jails lack the necessary facilities for any proper treatment of prisoners, and should be limited more and more to prisoners awaiting trial, and those serving light sentences.

Provision made for the detention and reformation of juvenile offenders, i.e., those under sixteen years (except in the province of Manitoba where the age limit is eighteen years), varies in different parts of Canada. Generally speaking, however, there is more uniform treatment in the different provinces for this class of prisoner than for adults.

The following is an account of the existing institutions in the various provinces:

Prince Edward Island

This province has three common jails. There are no industrial schools or juvenile institutions. Convicted juvenile delinquents are sent to institutions in Nova Scotia or New Brunswick.

Nova Scotia

There are no provincial reformatories or prison farms, but there are twenty-one common jails in the province, all owned and under the direct supervision of the various municipalities, but under some government supervision. There are four juvenile institutions under government supervision. These are:

- (a) The Halifax Industrial School (for Protestant boys), Halifax, N.S.
- (b) The Maritime Home for Girls (Protestant), Truro, N.S.
- (c) St. Patrick's Home (for Roman Catholic boys), Halifax, N.S.
- (d) The Monastery of The Good Shepherd (for Roman Catholic girls), Halifax, N.S.

New Brunswick

There are no provincial reformatories or prison farms, but there are fifteen common jails, owned by, and under the direct supervision of, the district municipalities, but without any government supervision. There are also two provincial juvenile institutions:

- (a) The Boys' Industrial Home of the Province of New Brunswick, East Saint John, N.B.
- (b) The Monastery of The Good Shepherd (for Roman Catholic girls), Saint John, N.B.

There is also an institution situated at Coverdale, near Moncton, which is known as The Interprovincial Home for Women. It is owned and operated by a board of governors, and supported financially by the different Protestant churches. It serves as a detention home for Protestant women over sixteen years of age, sentenced in any of the Maritime Provinces. The province and the municipality concerned each contribute toward the support of inmates sent from them.

Quebec

There are no provincial reformatories or prison farms in the province of Quebec. There are about thirty jails, all of which are under the direct control of the provincial Government. The principal ones are:

Bordeaux Jail, Montreal, which is the largest provincial institution in the province, with accommodation for over 500 inmates. It is of modern construction, and is the only major prison in Canada with all its cells of the closed outside type. It is well equipped for industrial work. The clothing, except underwear, provided to the prisoners in all the provincial jails in Quebec is manufactured in the tailoring shop. In the modern machine shop aluminum hollow-ware is made, not only for all jails, but also for other provincial institutions. It contains a Roman Catholic chapel and Protestant chapel, a library, and a hospital. The grounds outside the prison, though small in area, are highly cultivated, and produce a large quantity of vegetables used in the prison. The hospital for the criminal insane is located in a wing of this institution.

The Quebec jail for men, in Quebec city, is of heavy stone construction. It was erected over ninety years ago, and has accommodation for 185 inmates. No workshops or grounds are attached to the institution, and there are few facilities for employment.

The Quebec jail for women, situated near Quebec city, is a very fine building, just recently completed. It has accommodation for twenty-five inmates, and the average population is about fifteen. It is modern in every respect. The cells are clean and comfortable. Inmates are employed in the laundry and are also engaged in sewing and knitting.

The Montreal jail for women is divided into two parts; one for Roman Catholic women, and the other for Protestant women. The Roman Catholic prison is efficiently managed by the Congregation of the Sisters of the Good Shepherd. While the buildings are old, they are in good repair and have considerable grounds attached to them, in which the inmates take exercise. There is accommodation for sixty inmates. The Protestant prison is much smaller and there is only accommodation for twenty-two inmates. There is an average population of about fifteen. It is well managed, but is handicapped by the lack of proper facilities for the treatment of the inmates. The building is very old, and not suited for its present purpose. Both jails come under the general supervision of the governor of Bordeaux Jail.

The following juvenile institutions, reformatories, and industrial schools are located in the province of Quebec:

- (a) Montreal Reformatory School, Montreal.
- (b) Boys' Farm and Training School, Shawbridge.
- (c) Lorette School (for girls), Laval des Rapides.
- (d) Girls' Cottage and Industrial School, Sweetsburg.
- (e) Ste. Domitilde School, Laval des Rapides.
- (f) St. Charles Institution, Quebec.
- (g) St. Joseph de la Délivrance Institution, Lévis.
- (h) Montfort Orphanage, Montfort.
- (i) Huberdeau Orphanage, Huberdeau.

Ontario

The following reformatories, industrial schools, etc., are located in Ontario:

The Ontario Reformatory (for males), at Guelph, has accommodation for 700 inmates. Buildings are of modern construction, and include an administration building, school, chapel, hospital, and dental clinic. The industrial buildings include kitchen, bakeshop, tailoring shop, carpenter shop, laundry, motor licence plate shop, knitting mill, canning plant, machine and blacksmith shop, and iron bed factory. The grounds around the buildings are very well kept. The property consists of 945 acres, most of which is devoted to farming. Buildings on the farm include a dairy, barn, piggery, and slaughterhouse. There is a fine herd of dairy cattle, and the institution supplies beef to other reformatories, hospitals, etc.

The reformatory (for males), at Mimico, has an area of 208 acres and accommodation for 200 inmates. It has a large industrial plant, principally devoted to the manufacture of brick, which is used in the erection of provincial buildings throughout the province. It also has a machine shop, up-to-date farm buildings, and a registered dairy herd, poultry, and hogs.

The Industrial Farm (for males), at Burwash, is a new prison farm, of about 35,000 acres, located near Sudbury. As yet, most of the buildings are temporary. It has accommodation for 600 inmates. One permanent cell block has been completed and another is under construction. This building will include a chapel, auditorium, and segregation ward. The inmates are employed cutting wood for timber and fuel, raising farm crops, and in construction work. It has modern farm buildings, fifty cows, and a large number of sheep and hogs. Prisoners, with previous records and not susceptible to reformation, are sent here.

The Toronto Municipal Farm (for males), at Langstaff, receives short term prisoners from the city of Toronto. There is accommodation for 350 inmates. A farm of 940 acres is attached to this institution, on which there is a dairy herd that supplies milk to different institutions in the city of Toronto. There is also a tailoring shop.

The Mercer Reformatory (for females), at Toronto, in addition to training inmates in regular housework and cooking, has a factory where large quantities of towels, quilts, sheets, dresses, shirts, aprons, and prison gowns are manufactured. There is also a large laundry. The grounds comprise nine acres. Accommodation is provided for 200 inmates in this institution.

The Industrial Refuge (for females), at Toronto, has accommodation for seventy-five inmates, and the Home of the Good Shepherd (for females), at Toronto, has accommodation for thirty-five inmates.

In addition to the above, there are ten district jails, situated in Northern Ontario, owned and operated by the Ontario Government, and there are forty-seven city, county, and municipal common jails.

The following juvenile institutions, all administered by the provincial authorities, are located in Ontario:

- (a) The Ontario Training School for Boys, Bowmanville.
- (b) The Ontario Training School for Girls, Galt.
- (c) St. Joseph Industrial School, Alfred.
- (d) St. John's Industrial School, Toronto.
- (e) St. Mary's Industrial School, Toronto.

Manitoba

The Provincial Jail and Prison Farm (for males), at Headingly, Manitoba, is located about twelve miles from Winnipeg. It is of very modern construction, and was opened in 1929. Maximum accommodation is for 306. Buildings include a chapel, gymnasium, and library. There is a farm of 500 acres, which provides employment for a large proportion of the inmates. There is also a provincial jail for women at Portage la Prairie, and three provincial jails for men, at Portage la Prairie, Brandon and Dauphin.

The following juvenile institutions are located in Manitoba:

- (a) The Manitoba Home for Boys, Portage la Prairie.
- (b) The Manitoba Home for Girls, West Kildonan.
- (c) The Home of the Good Shepherd, West Kildonan.

Saskatchewan

The Provincial Jail (for males), at Prince Albert, is a fine brick structure erected in 1921. There is a farm of 1,200 acres, which produces large crops of grain and vegetables, and supports a large dairy herd. There is a library and chapel connected with the institution, which has accommodation for 200 inmates.

The Provincial Jail (for males), Regina, is situated about four miles from that city. It was built in 1913. The total area of the grounds is 960 acres, of which 320 are rented. It has a maximum accommodation for 250. The buildings include a hospital, chapel, and library. The main employment of prisoners is farm work. The farm is under the supervision of the provincial Department of Agriculture, and is well equipped with a barn, stables, and other buildings. There is a first class herd of cattle, a large number of hogs, and some pedigreed horses. Buildings include cottages for members of the staff. There is also a provincial jail for males under twenty-one years, at Moosomin, and provincial jail for women at Battleford.

The only juvenile institution in Saskatchewan is the Industrial School for Boys at Regina.

Alberta

The Provincial Jail (for males and females), at Fort Saskatchewan, is situated thirty miles from Edmonton. Buildings include a new and very modern building for females, which is separate from the others. There is a library, and church service is held regularly. A large farm of about 1,000 acres, well equipped with buildings, provides work for the inmates.

The Provincial Jail (for males), at Lethbridge, has a farm of 1,200 acres, which provides work for most of the inmates. Other work is provided in the kitchen, laundry, press room, clothing room, and the shoe shop. A considerable amount of live stock is raised on the farm.

There are no institutions for juvenile delinquents in Alberta. Under the probation system, juveniles are sent to selected farms or homes, under the supervision of the Department of Child Welfare.

British Columbia

The Oakalla Prison Farm, at Burnaby, was erected in 1910. It has maximum accommodation for 462 inmates. There is a farm of 170 acres. The buildings include a library, tailor shop, and machine shop.

There is a provincial jail at Kootenay. The following juvenile institutions are located in this province:

- (a) Provincial Industrial School for Girls, Vancouver.
- (b) Provincial Industrial School for Boys, Port Coquitlam.

GENERAL CHARACTERISTICS OF CANADIAN PENITENTIARIES

A complete report on each Canadian penitentiary, including management and discipline, is made in Part III of this report. The following is a brief summary of the principal characteristics common to all Canadian penitentiaries.

Apart from Saskatchewan Penitentiary, Collin's Bay, the Laval Buildings (now in construction adjacent to St. Vincent de Paul) the Women's Prison at Kingston, and new wings at one or another of the penitentiaries, all of them are very old buildings. They are kept clean, but the ventilation and heating systems are inadequate, and they are all surrounded by thick high walls.

Although such walls are necessary for a maximum security penitentiary, your Commissioners regret that they have been constructed at the Women's Prison, and are now under construction at Collin's Bay and Laval, which were originally intended for the more reformable class of inmates.

The cellular system is in use throughout. There are no dormitories. In general, the cells are adequate, and their equipment modern and sanitary, but, in all penitentiaries, except the former women's prison building in Kingston Penitentiary, and some cells now under construction at Dorchester and St. Vincent de Paul, the cells are of the barrier inside type, which, in the opinion of your Commissioners, should be altered, if possible, to closed outside cells, and, in future buildings, only cells of the latter type should be constructed.¹ Your Commissioners are definitely opposed to the use of dormitories, or the confinement of more than one prisoner in a cell.

The punishment cells are very little different from the ordinary ones, and are not the dark dungeons some misinformed people would have the public believe. They are not, of course, provided with the comforts of

¹ The reasons for this opinion are fully set out in Chapter XXII of this report, which deals with Dorchester Penitentiary.

the ordinary cells, but it is not to be expected that inmates undergoing punishment should have the same accommodation as the others.

The food is of excellent quality, wholesome and plentiful, although, perhaps, a more substantial breakfast might be given to those who are engaged in heavy outside work. The food is not extravagant, but your Commissioners are of the opinion that it is quite ample, and they have found it to be much better than that provided in the prisons of the European countries or in England. While the food supplied in the Canadian penitentiaries is good, the preparation is often open to criticism, largely because it is cooked in boilers instead of ranges, and because some of the stewards lack experience or are not sufficiently efficient. There are no dining rooms. The prisoners eat in their cells. While your Commissioners do not favour dining rooms as a general practice, after proper classification, eating in association might very well be permitted in some of the institutions.

Discipline for the inmates is uniform and rather severe. Regulations and punishable offences are too numerous, and corporal punishment, although not often inflicted, is yet awarded too frequently, and for too many prison offences. The courts that deal with prison offences are necessary, but, as at present constituted, and under the present system, are not conducted in a satisfactory manner because there are no practical means of avoiding the possibility of injustice.

The rule of silence is in force except during certain designated periods. Smoking is permitted at certain times.

Classification, in so far as it exists, is unscientific and without practical effect. Old recidivists and incorrigibles are in daily contact with the more reformable prisoners, and, as repeatedly admitted by officers of the institutions, no real attempt is made at reformation.

Education is neither satisfactory, nor in accordance with the regulations. Libraries are fairly well provided with books and magazines, but the censorship is often inadequate or puerile. Sometimes it is too stringent. No newspapers are permitted in the penitentiaries. An issue of weekly news is made by the prison authorities, but this is not sufficiently comprehensive to keep the inmates aware of what is going on in the outside world.

Work is insufficient, and, generally, trades are not taught because of the lack of industries and the dual role of the instructors, who are also custodial officers. The farms are not exploited or cultivated to the extent of their possibilities. If adequately utilized, these farms could provide all the produce required by the penitentiaries. The prisoners are paid a remuneration of five cents per day.

There is not sufficient physical exercise, especially on Sundays and holidays, and, as a rule, competitive games are prohibited. In some institutions, and for a few inmates only, volley ball and quoits are authorized. A few concerts are given by outside artists, but the inmates are not allowed to take part in these. In some penitentiaries radios with loud speakers, paid for by contributions from the inmates, have been

installed. No hobbies are permitted in the cells and, except for a few privileged inmates, there is no inside recreation.

Writing and visiting privileges are too restricted, and the visiting cages are gruesome and humiliating relics of the past.

Personal sanitation is inadequate, the prisoners being permitted but one bath and one shave per week.

Medical care is good in some institutions, but bad in others, according to the character and qualifications of the medical officers. Some of the penitentiary hospitals are modern, while others are antiquated and unsatisfactory.

The personnel of the penitentiaries is not properly trained. Approximately 95 per cent of the guards had no knowledge or training in penology when they first entered the service and, although a slight attempt has been made to train them after they were engaged, such training has been neither adequate nor satisfactory.

Attendance at religious services is obligatory. Some chaplains are well qualified and do much good, while others are unqualified, uninterested, and do very little good.

The accounting system is good, but perhaps too complicated, and it involves much unnecessary correspondence.

Discharge clothes are badly fitted, and often made of poor materials, so that they are a decided handicap to reformed prisoners in their search for employment.

CHAPTER IV

PENITENTIARY BRANCH

POLICIES

Central Authority

The Penitentiary Branch is the headquarters of the penitentiary system of Canada. According to section 3 of the Penitentiary Act, the penitentiaries are under the authority of the Minister of Justice, who is given complete administrative control over the persons confined therein, and the power to make rules and regulations for the management, discipline, and policing of the institutions, and for such other purposes as may be necessary or expedient for the carrying into effect of the provisions of the Act. Sections 14 and 15 deal with the duties and powers of the Superintendent. They provide that, under the authority of the Minister, he shall direct and superintend the administration of the penitentiaries, and perform such other duties as may, from time to time, be assigned to him by the Minister. He is also authorized, subject to the approval of the Minister, to make rules and regulations,

- “(a) for the administration, management, discipline and police of the penitentiaries, and the wardens of the penitentiaries, and every other officer employed in or about the same, as well as the convicts confined therein, shall be bound to obey such rules and regulations,
- (b) for the establishment and carrying on of any work or industry at any penitentiary as may be thought desirable for the useful employment or training of the convicts, for the employment of the convicts therein, for the disposal of the products thereof and as well for allowing subject to such conditions as may be prescribed and payable in the manner and to such persons as may be designated by the regulations, remuneration for the labour of convicts. 1918, c. 36, s. 3.”

According to sections 20 and 21 of the Act, there may be no more than three inspectors of penitentiaries. These inspectors shall perform such of the duties required by the Act as the Minister may assign to them respectively. They shall, under the direction of the Superintendent, visit, examine, and report upon the state and management of the penitentiaries, and give consideration to the suggestions that the wardens or officers in charge thereof make for the improvement of the same.

According to section 24 of the Act, wardens and deputy wardens shall be appointed for the penitentiaries generally. The powers of a warden are defined in section 26, as follows:

“He shall be the chief executive officer of the penitentiary; and as such shall have the *entire executive control and management of all its concerns*, subject to the rules and regulations duly established,

and the written instructions of the Superintendent or the Minister; and he shall be responsible for the faithful and efficient administration of the affairs of every department of the penitentiary."

The law is clearly expressed, and there need be no speculation regarding its true interpretation, yet, after a very thorough examination of the administration of the Canadian penitentiary system, your Commissioners have come to the conclusion that, since 1932, extreme dictatorial methods have been followed in the Penitentiary Branch. Instead of responsible resident management by the wardens, as the law contemplates and a successful penal system requires, a centralized control of minor and even trivial matters of administration in individual penitentiaries has been set up, destroying the authority, the power of initiative, and the effectiveness of the wardens and inspectors.

This control by the Superintendent has been established, and is exercised, in an arrogant manner, without the conferences with the wardens and inspectors one would ordinarily expect. Contrary to the letter and spirit of section 26 of the Act, the authority of the wardens in dealing with matters pertaining to the administration of their institutions has been almost entirely nullified.

Undoubtedly, for the sake of uniformity and in order to ensure a well-balanced and effective penal system, basic principles should be laid down by a central authority, but the local management and the conduct of the affairs of each institution should be the responsibility of the warden and his assisting officers, in consultation and co-operation with the central authority. If the wardens are to be held responsible for the administration of their institutions, they must retain some authority, and be permitted some initiative. They should be encouraged to express their views, and permitted to determine, to a large extent, what, in their opinion, which is based on long experience, is best for the security and reformation of the prisoners. It is not proper that, without being consulted, they should be compelled to employ methods to which they cannot at times subscribe, and which their experience may lead them to believe would, in fact, be detrimental to the best interests of the service. It must be assumed that, having been selected for such important posts, they will be fully qualified for their positions.

In order to establish efficient administrative control over the penitentiaries, co-operation between the wardens, the inspectors, and the Superintendent is essential. The wardens, who are constantly in touch with the staff and the inmates of the institutions, acquire a first-hand knowledge of what is required in their administration. The inspectors, who visit, examine, and report upon the management of the penitentiaries, and who receive suggestions made by the wardens and other officers as to possible improvements, are in a position to give valuable advice to the Superintendent, and are worthy of consultation. Notwithstanding this, however, since 1932, the Superintendent has not seen fit to call any conference with the wardens and inspectors at which an exchange of views beneficial to the administration could be made. Moreover,

between 1932 and the present time, the Superintendent has seldom availed himself of the opportunity to visit the penitentiaries, where he might have familiarized himself with the situation existing in them and the difficulties of their wardens. Through this neglect he has deprived himself of an essential means of acquiring a first-hand knowledge of conditions in the institutions. Particulars of the visits paid by the Superintendent to each institution during these years is as follows:

1932

| Dorchester ⁽¹⁾ | St. Vincent ⁽¹⁾ de Paul | Kings- ⁽²⁾ ton | Man. ⁽¹⁾ | Sask. ⁽¹⁾ | B.C. ⁽¹⁾ |
|---------------------------|---------------------------------------|--------------------------------------|---------------------|----------------------|---------------------|
| Aug. 31 (a few days) | Aug. 18 | 10 vists during 1932-3. C.B. 1 | None | None | None |

1933

| | | | | | |
|------|-------------------|-----------------------|--------------|------------|---------|
| None | Oct. 18 Dec. 5 | 7 visits in 1933-4 | Mar. 6 and 9 | Feb. 19-28 | In Feb. |
|------|-------------------|-----------------------|--------------|------------|---------|

1934

| | | | | | |
|-----------|-------------------------------|----------------------|-------------|-------------------|---------|
| Sept. 2-6 | Jan. 19 Jan. 29 Aug. 31 | 4 vists in 1934-5 | Sept. 26-29 | Oct. 30 Nov. 7 | In Nov. |
|-----------|-------------------------------|----------------------|-------------|-------------------|---------|

1935

| | | | | | |
|------|---|----------------|------|------|------|
| None | Feb. 20 June 13 July 17 July 31 Sept. 21 Oct. 17 | None in 1935-6 | None | None | None |
|------|---|----------------|------|------|------|

1936

| | | | | | |
|------|---------|------------------------|------|------|------|
| None | Feb. 10 | One visit in 1936-7 | None | None | None |
|------|---------|------------------------|------|------|------|

(1) Taken from records kept by penitentiaries.

(2) Taken from record submitted by Penitentiary Branch. Latter shows:

1932-3: Dor. 1, S.V.P. 2, Kingston and C.B. 11, Man. 1, Sask. 1, B.C. 1.

1933-4: Dor. 3, S.V.P. 7, Kingston 7, Man. 1, Sask. 1, B.C. 1.

1934-5: Dor. 1, S.V.P. 1, Kingston 4, Man. 1, Sask. 1, B.C. 1.

1935-6: Dor. 0, S.V.P. 5, Kingston 0, Man. 0, Sask. 0, B.C. 0.

1936-7: Dor. 1, S.V.P. 0, Kingston 0, Man. 0, Sask. 0, B.C. 0.

1937-8: Dor. 1, S.V.P. 0, Kingston 0, Man. 0, Sask. 0, B.C. 0.

It will be noted that, during the fiscal year, 1932-1933, the Superintendent made ten visits to Kingston. These visits, however, were made at the time of, or in connection with, the riots which occurred in that institution. Many excuses were offered to your Commission by the Superintendent for failing to make more frequent visits to these institutions, but we cannot find that these excuses are valid. We believe the

true reason is that the Superintendent was so engaged with small matters of administration, which should have been delegated to others, that he did not have the time to perform this important duty.

After the Superintendent had been six months in the service, he was responsible for drafting the penitentiary regulations. There are 724 of these, as well as ten appendices. They deal in great detail with all matters concerning the administration, discipline, and policing of the penitentiaries. The Superintendent not only drafted these regulations, but put them into force, without consulting, or getting the advice of, the wardens in charge of the various penitentiaries. Moreover, when one of these wardens ventured to offer his advice regarding the new regulations—advice which was most courteously submitted—the Superintendent abruptly informed him that, if he was not satisfied, he was at liberty to resign.

The Superintendent was asked by your Commissioners if it was not a fact that, when the book of regulation was sent to the wardens, a certain warden had asked for a delay of five or ten days before putting them into force because he wished to examine them and submit comments and suggestions regarding them, and that his proposal had been answered by an invitation to resign. The Superintendent emphatically denied that this was the case, repeating twice, "That is not true," "No, sir, that is not true."¹ The letter from the warden referred to is dated February 19, 1934. In it he acknowledged receipt of the new regulations, and respectfully suggested that, in the interests of the entire service, they should not become effective until March 1, 1934. The delay was requested in order that the warden and his senior officers, at each institution, might have an opportunity of becoming familiar with the regulations and so be in a better position to enforce them efficiently. The Superintendent's reply to that letter is dated February 22. It is, in part, as follows:

- "1. Reference File S/186, letter of 19th instant, paragraph 1, your observation of circular letter 13, paragraph 2 is invited. Further comment would appear to be unnecessary for we all realize that wardens of penitentiaries are selected in the belief that they are honest, responsible, prepared to work under authority and to enforce the law and regulations brought into effect by the government. When it has been found that officers do not live up to this standard, they have been removed from office and have been replaced by persons who, it is believed, will carry on in the desired manner and who will investigate or know the reason for each one of his acts or recommendations which must naturally be founded upon authority.
2. Reference to paragraph 3,² see paragraph 1 of this letter. If at any time you feel that you are not prepared to enforce same (regulations wholeheartedly), it is presumed that you will forward appropriate communication to this office."

¹ General Ormond's evidence, Vol. I, pp. 22-23, inclusive.

² This refers to the warden's request that there be a delay to March 1, 1934, before the new regulations should become effective.

Confronted with this correspondence, the Superintendent admitted that he had erred in denying that this was the truth of the matter.

The evidence conclusively satisfies us that the co-operation of the wardens in drafting the regulations was entirely disregarded.

Control of Expenditure

Your Commissioners believe that there is an unnecessarily restrictive control of expenditures, which involves unnecessary correspondence and delay in providing for the needs of the penitentiaries. For example, when a warden has submitted a requisition to the Branch for the replacement of stocks or consumable materials, and when the requisition has been approved by the Branch and the materials delivered, it would seem that this should be the end of the procedure and that the materials or stock should be put into use without the necessity of further authorization or further correspondence. Under the present unnecessarily restrictive control, even after the requisition has been approved and the materials or stock delivered, permission must again be obtained from the Branch before they can be put into use. An instance of this procedure is contained in a letter from the Superintendent, dated December 30, 1935, dealing with a requisition (A 458) for water-glass washers. The purchase of these water-glass washers, costing but a few cents each, had been authorized, and they had been delivered at Kingston Penitentiary, yet, although the requisition had been approved for this specific purpose, the washers could not be used until further permission had been obtained from the Branch. Such procedure is not only aggravating but expensive.

Circular Letters

Since 1932, the Superintendent has issued 858 circular letters commenting on, and interpreting, the various regulations. Some of these circulars have been to amend, and some to rescind, preceding circulars. Some contain as many as fifty-six paragraphs. In addition, the Superintendent has issued numerous brochures regarding the management of the penitentiaries. These, together with an enormous correspondence, often on trivial matters of detail, have taken fifty per cent of the time of the wardens and other officers—time which could usefully have been employed in the management of the penitentiaries. The extent to which the initiative and authority of the wardens have been curtailed may be gauged from the following examples of centralized control of minutia:

1. In order that the sum of twelve cents, the price of a broken toothbrush, may be charged to an inmate's account, the warden is compelled to secure the authority of the Superintendent.
2. It is necessary for the warden to secure the Superintendent's authority to replace a five cent scribbler when it has been destroyed.
3. Any repairs to typewriters, which involve an expenditure of over one dollar, may not be made without the authority of the Superintendent.

4. Whenever it becomes necessary to supply a prisoner suffering from fallen arches with a support costing twenty-five cents, even when such a support has been authorized by the doctor of the institution, the warden must obtain the authority of the Superintendent.
5. When a prisoner requests permission from the warden to write a business letter, the warden cannot give such permission without first obtaining the authority of the Superintendent.
6. If an inmate has money to his credit and wishes to transfer part of it to his relatives who are in need, the warden has no authority to grant permission until he has obtained the authority of the Superintendent.
7. In one instance, the warden wished to paint the benches of the mail bag department, but could not do so without first securing the authority of the Superintendent.
8. If a warden requires the replacement of a pail that has been condemned by a survey board, he cannot do so without the authority of the Superintendent. He must first obtain an estimate as to the cost of a new pail. The estimate, accompanied by a request for authority to buy or make a new pail, must then be submitted to the Superintendent. Even then, before a new pail can be made, the warden must also submit a requisition for galvanized iron, and explain to the Superintendent the purpose for which it is intended.
9. If a prisoner requires a special pair of shoes and the doctor is prepared to recommend them, the warden must forward a request to the chief trade instructor and the shoemaker, get an estimate of what it will cost, and forward this estimate to Ottawa for the authority of the Superintendent before the prisoner can be supplied with the necessary shoes.
10. In one case, where hinges worth sixteen cents were required to be put on storm windows, they could not be bought without first having the authority of the Superintendent.
11. The Superintendent's authority is necessary for painting the walls or varnishing the floor of the hospital.
12. In the summer of 1935, the farm at Dorchester Penitentiary became overstocked with young pigs. The farm instructor found it necessary, because of the lack of facilities, to keep about 85 in one pen where, in a few weeks, many of them became lame and it appeared that a large number would be lost. However, some wire, which had been purchased for a line fence, was available because it was not yet required for that use. In order to save the pigs, the farm instructor utilized this wire to divide the pigs into a number of pens and, as a result, saved the entire number. Immediately the emergency had been met he submitted a requisition for more wire. When the Superintendent learned

that the farm instructor had saved a considerable loss of penitentiary property by utilizing the wire, however, he wrote severely censuring both the warden and the farm instructor because they had not first written to him for permission to use it for another purpose than that for which it had been purchased. If the farm instructor had been as punctilious as the Superintendent in observing strict formalities, \$700 worth of pigs would have sickened, and a great majority of them would have died. Correspondence on the subject was maintained for an entire year before the incident was closed.

13. On one occasion, the officers and guards of a penitentiary were prevented from buying a wreath for the deceased wife of a fellow officer because it would have been necessary to secure the authority of the Superintendent to make subscriptions, and such authority could not be obtained in time.
14. Every article in each penitentiary is required by instructions of the Superintendent to be marked and numbered, and much of the valuable time of the staff is consumed in performing this task.
15. Circular 85 regarding employment of prisoners, issued on May 15, 1934, enumerates the class of inmates, according to the type of crime committed, who must not at any time be employed outside the penitentiary walls without permission from the Penitentiary Branch. It does not state, however, whether a man who has been committed for one of the enumerated crimes on a previous occasion, but who is now serving a term for another type of crime, should be permitted to work outside the walls. A prisoner, whose previous record may show him to be a most dangerous criminal, when by chance serving a sentence for a non-enumerated crime, is not, therefore, prohibited from employment outside the walls, while some occasional or accidental offender, who is serving a term for an enumerated crime, is required to be confined within the walls, irrespective of the opinion of the warden.

As stated above, approximately half the time of the officers and wardens is taken up with correspondence and the signing of papers, and it follows that at least an equal amount of time must be devoted to the same task by the inspectors and the Superintendent. The waste of time and effort devoted to unnecessary details is evident.

One of the essential features of a successful penal system is a sympathetic understanding between the central authority and the local personnel. This can only be achieved through the co-operation of both. Your Commissioners are of the opinion that, under the policies of the present administration, such co-operation is conspicuously lacking in the Canadian penitentiary service.

INSPECTION OF PENITENTIARIES

Under section 18 of the Penitentiary Act, the Superintendent is given free access to every part of any penitentiary for the purpose of making inspections, and he may examine all the records of any kind belonging thereto.

As already stated, sections 20 and 21 provide for the appointment and outline the duties of three inspectors, who are charged, under the direction of the Superintendent, to visit, examine, and report upon the state and management of the penitentiaries. In practice, the duties of the inspectors have been limited by the application of section 21, which calls for the direction of the Superintendent to the inspectors in carrying out the duties imposed under section 14.

The powers given to the wardens by section 26 have been outlined above, and it has been pointed out to what an extent these powers have been limited by the highly centralized control of the Superintendent. It has been established as a departmental practice that the inspectors are to act only under the direction of the Superintendent, and, as a result of this practice, the inspectors have no authority over the wardens, and have no right or duty to give instructions, or make suggestions in the nature of instructions, to the wardens or other officers in the penitentiaries. Any suggestions the inspectors may think fit to make may be acted upon, or not, in the discretion of the wardens, who are not subject to any direction or control by any penitentiary officer except the Superintendent. The inspectors are in fact junior to the wardens.

As indicated, your Commissioners have found that the direction and superintendence of the penitentiaries, which is provided for by section 14, have been conducted far too much by voluminous and detailed correspondence from Ottawa, and without the necessary direct personal supervision of the Superintendent or his inspectors, and that their visits have been too few, their examinations incomplete, and their reports irregular and inadequate.¹

Your Commissioners are of the opinion that frequent and thorough inspections, not so much with a view to criticism as for the purpose of supervision, helpful co-operation, and consultation are essential. These inspections should also afford opportunities for the interchange of views. Superintendence by correspondence leads to misunderstandings on both sides, engenders distrust, and creates an atmosphere of criticism, which is greatly to be deplored. In England and Wales, although it is recognized that there are not the same geographical difficulties, the thirty-nine prisons are each visited at least twice a year by members of the Prison Commission, and two or three times a year by one of the assistant Prison Commissioners. In addition, special attention may be given to any one institution when peculiar conditions require it. One of the three Canadian inspectors, whose duties began April 1, 1935, had, up to November, 1937, spent only 49 days in the institutions.

(1) VISITS TO PENITENTIARIES BY INSPECTORS

(Taken from Report by Penitentiary Branch)

1932-3

| Dorchester | St. Vincent de Paul | Kingston and C.B. | Man. | Sask. | B.C. |
|------------|------------------------|----------------------|------|-------|------|
| None | 2 | 1 | 1 | 1 | 1 |

1933-4

| | | | | | |
|---|---|----|---|---|---|
| 5 | 3 | 11 | 2 | 2 | 2 |
|---|---|----|---|---|---|

1934-5

| | | | | | |
|---|----|---|------|------|------|
| 1 | 3 | 5 | None | None | None |
| 2 | 10 | 2 | None | None | None |

1935-6

| | | | | | |
|------|---|---|---|---|---|
| None | 4 | 1 | 2 | 2 | 2 |
|------|---|---|---|---|---|

1936-7

| | | | | | |
|---|---|---|------|------|------|
| 2 | 1 | 1 | None | None | None |
|---|---|---|------|------|------|

Apart from the infrequency and inadequacy of inspections, another consideration has been overlooked. Penitentiary regulation 53 reads as follows:

"A convict may be permitted to see the Superintendent, or one of the Inspectors, on the occasion of the visit of any such officers to the penitentiary, upon making a request to that effect."

It will be seen that this permission has not been of much value to the inmates of Canadian penitentiaries. Even when visits are to be made by inspecting officers, the inmates are not advised, and, in practice, interviews are not encouraged or facilitated. Two of the inspectors have never held any interviews with inmates, and the total number of such interviews could be regarded as negligible.

Your Commissioners are of the opinion that an inspector should not be junior in rank and pay to a warden, and that it is highly undesirable that a warden should be subject to inspection by an officer who hopes to be promoted to his rank.

DISMISSAL OF OFFICERS

Many complaints were made to the Commission by those who had been summarily dismissed from the penitentiary service since the present Superintendent assumed office. Your Commissioners explained to all those who came before them that such cases would not be reviewed for

the purpose of determining whether or not there had been good cause for dispensing with the services of any particular officer, because we did not believe that we had, in any sense, been created as a board of review to deal with particular cases. To deal with particular cases would have required a complete investigation of all the circumstances bearing on the service of each individual, and it would have been necessary to permit both sides to adduce evidence for, and against, their respective contentions.

Nevertheless, your Commissioners consider that the practice that has prevailed in dispensing with the services of officers is of manifest importance in the administration of the penitentiaries as a whole. Until 1933, appointments were made to the penitentiary service by the Civil Service Commission. Since that date, the Superintendent, inspectors, wardens, deputy wardens, and such other administrative or executive officers as are required, have been appointed by order in council, and the subordinate officers, such as guards, trade instructors, etc., by the Superintendent, on the recommendation of particular wardens. Although officers were appointed by the Civil Service Commission prior to 1933, they were dismissed or released by the Minister, on the recommendation of the Superintendent.

The Superintendent was requested to furnish the Commission with a statement showing the names of the officers who have been released from the service since he took office, together with the reasons for such releases. In dealing with the matter, we have not taken into consideration the cases of those officers who were released from the penitentiary service due to the closing of the special institution that existed for a short time at Piers Island, British Columbia.

When the Superintendent assumed office, there were 767 officers engaged in the penitentiary service, and, on the 30th of November, 1937, there were 899. Of the 767 officers in the service on the 1st of August, 1932, 303 were released between that date and the 30th of November, 1937; 224 prior to the 8th of October, 1935, and 79 since that date.

On the record furnished to us, the reasons shown for the release of many of the officers are indefinite, and denoted only in the following manner: "Services dispensed with"; "Dismissed"; "Retired to promote efficiency"; "Let out"; "Ceased to be employed"; "Unsuitable." Others are denoted in a definite manner; ill health, old age, etc. Of the 224 previously mentioned as having been released prior to the 8th of October, 1935, 49 were released on account of age, ill health, etc., and 178 for other, and indefinite, reasons. Of the 79 released since the 8th of October, 1935, 30 were released on account of age, ill health, etc., and the remainder for indefinite reasons.

At Kingston Penitentiary, 152 officers were employed on the staff at the beginning of the period. Of these, 76 were released between the 1st of August, 1932, and the 30th of November, 1937; 62 prior to the 8th of October, 1935, and 14 since that date. Of the 62 previously mentioned, only 3 were released on account of age, ill health, or for a stated specific cause, and the remainder for other, and indefinite, reasons. Of the 14

released since the 8th of October, 1935, 5 were released on account of age, ill health, etc., and the remainder for indefinite reasons.

At St. Vincent de Paul Penitentiary, 177 officers were employed on the staff at the beginning of the period. Of these, 50 were released between the 1st of August, 1932 and the 30th of November, 1937; 28 prior to the 8th of October, 1935, and 22 since that date. Of the 28 previously mentioned, 3 were released on account of age, ill health, etc., and the others for indefinite reasons. Of the 22 released since the 8th of October, 1935, 5 were released on account of ill health, age, etc.; the remainder for other, and indefinite, reasons.

At Dorchester Penitentiary, 75 officers were employed on the staff at the beginning of the period. Of these, 23 were released between the 1st of August, 1932, and the 30th of November, 1937; 13 prior to October, 1935, and 10 since that date. Of the 13 released prior to October, 1935, 7 were released on account of age, ill health, etc., and 4 for other, and indefinite, reasons. Of the 10 released since October, 1935, 6 have been released on account of age, ill health, etc., and the others for indefinite reasons.

At Manitoba Penitentiary, 87 officers were employed on the staff at the beginning of the period. Of these, 18 were released between the 1st of August, 1932, and the 30th of November, 1937; 16 prior to October, 1935, and 2 since that date. Of the 16 released prior to October, 1935, 12 were released on account of age, ill health, etc., and 4 for other, and indefinite, reasons. The 2 released since October, 1935, were released for indefinite reasons.

At British Columbia Penitentiary, 92 officers were employed on the staff at the beginning of the period. Of these, 62 were released between the 1st of October, 1932, and the 30th of November, 1937; 56 prior to October, 1935, and 6 since that date. Of the 56 released prior to October, 1935, 11 were released on account of age, ill health, etc., and the remainder for other, and indefinite, reasons. Of the 6 released since October, 1935, 3 were released on account of age, ill health, etc., and 3 for indefinite reasons.

At Saskatchewan Penitentiary, 110 members were employed on the staff at the beginning of the period. Of these, 41 were released between August 1, 1932, and the 30th of November, 1937; 31 prior to the 1st of October, 1935, and 10 since that date. Of the 31 released prior to the 1st of October, 1935, 6 were released on account of age, ill health, etc., the remainder for other, and indefinite, reasons. Of the 10 released since October, 1935, 5 were released on account of age, ill health, etc., and 5 for indefinite reasons.

At Collin's Bay Penitentiary, 74 officers were employed on the staff at the beginning of the period. Of these, 33 were released between the 1st of August, 1932, and the 30th of November, 1937; 18 prior to October, 1935, and 15 since that date. Of the 18 released prior to October, 1935, 2 were released on account of age, ill health, etc., and 16 for other, and

indefinite reasons. Of the 15 released since October, 1935, 2 were released on account of age, ill health, etc., 6 on account of reduction of staff, and 7 for indefinite reasons.

Having regard to the number employed on the staff of each of these penitentiaries, it will be observed that at Kingston, St. Vincent de Paul, British Columbia, Saskatchewan, and Collin's Bay penitentiaries, an unusual number were released between August 1, 1932, and October, 1935. The Superintendent has explained to us that this course was taken in an effort to improve the efficiency of the penitentiary staff.

Following the disturbances at Kingston Penitentiary in 1932, the Superintendent, who then had been about four months in the penitentiary service, made a special investigation in regard to the penitentiary staff there. Officers were called before him and questioned, and a report was subsequently made regarding them. These interviews were of short duration, and could afford the Superintendent little opportunity to appraise the officers' ability fairly. On the 12th of December, 1932, the Superintendent made a report to the Minister of Justice, recommending the immediate retirement of 36 officers, and submitting a further list of the names of 28 officers, who were stated to be unsatisfactory, and who were to be specially reported on by the warden of the penitentiary. These lists were subsequently reviewed by the Superintendent, the warden, and the Minister of Justice, with the result that 29 officers were recommended for immediate retirement "to promote the efficiency of the service." Others, whose names appeared on the above list, are still on the staff.

As has been stated, it is not considered part of our duty, and, in fact, it would be quite impossible for us adequately to investigate the merits of each of these particular cases with a view to deciding whether or not the conclusions of the Superintendent were correct, but it is relevant for us to deal with the method adopted in handling such cases.

Without having received any previous warning that their dismissal was contemplated, the officers were peremptorily notified that they had been retired "to promote efficiency of the service." No further explanation was given. The officers were not informed as to why they were being retired. In some cases which have been drawn to our attention, the report to the Minister shows charges of neglect of duty, based on evidence "taken behind the officer's back," without opportunity being given him for explanation or defence. The warden remonstrated with the Superintendent on this method of dealing with these officers, but he was overruled in such a manner that it almost precipitated the warden's resignation. Naturally, these officers feel that a great injustice has been done them. They believe that they have been peremptorily and arbitrarily deprived of their living. They are suspicious of what has taken place, and they feel that they ought to have been advised of the reasons why it was considered that their retirement was necessary to promote the efficiency of the service.

In one case that was drawn to our attention, the Superintendent reported to the Minister that a particular officer had been guilty of a

specific neglect of duty, and this was given as the reason for recommending his retirement. No other complaint was made as to his efficiency, no charge was laid against the officer, and at no time was he given any opportunity of explaining the neglect of duty that has been given as the reason for his release. The course adopted by the Superintendent in these cases appears to be against the spirit, if not the letter, of the regulations for which he himself has been responsible. Rule 503*a* reads as follows:

“The Warden may suspend any penitentiary officer or employee who is guilty of misconduct, inefficiency or neglect in the performance of his duties, and remove such suspension; but the dismissal of any such officer or employee, if recommended, shall not take effect until the recommendation of the Warden in that behalf has been approved by the Minister of Justice.”

Rule 503*b* reads as follows:

“The Warden shall, upon suspending any such officer or employee, inform him of the reason or cause for such suspension, and report the same to the Superintendent.”

In dealing with the matter before your Commission the Superintendent gave evidence as follows:

“Q. In connection with officers. The practice has been that when you discharge an officer he is given notice that his discharge or retirement is to promote efficiency in the service, or in the interests of efficiency in the service. He is given no other explanation as to why he is being dismissed. That is correct?

A. That is the practice.

Q. What do you think of that?

A. I think it is decidedly unfair.

* * * *

Q. You say it is unfair?

A. In my opinion.

Q. Then why is it done?

A. That is something to which I do not know the answer.

* * * *

Q. I asked you if you got instructions to that effect, that is, that you should remove some officers without giving any other reason than simply saying it was to promote efficiency. Did you get instructions to that effect? If not, why is it done?

A. It is following the practice of the service.

Q. You say it is absolutely unfair?

A. In my opinion.”

Referring to the regulations, the witness was questioned;

“Q. You made the amendments?

A. I did. It is my opinion that if a man is suspended or anything

else he should be given at that time the reason for it, or as soon thereafter as possible. As far as I know, since this regulation came into effect that has been done in every instance.

* * * *

Q. We have seen recommendations from you for the retirement of an officer to promote efficiency, and that was the only reason given. Now, you say that that is unfair?

A. Yes, sir.

Q. Why do you do it?

A. I submit the report to the department and the decision comes from the department.

* * * *

Q. Do the regulations prevent you from giving a reason to the officer who is retired?

A. No, I don't think so.

* * * *

Q. You passed this on and . . . is found guilty of these things and is given no opportunity of even defending himself.

A. Yes, sir.

Q. That is a most unfair procedure to be applied to any officer. You have admitted it is unfair, so I say: Why was it done?

A. I cannot answer; I am unable to answer.

* * * *

Q. May we take it that these men mentioned in this list were treated in the same way?

A. You mean, according to the regulation?

Q. No, that they were dismissed without the opportunity of being heard in their own defence?

A. I think that is correct, as far as I remember."

Without discussing the merits of individual cases, it is evident that this course of dealing with officers is bound to destroy the morale of the staff. Officers in a department of justice—or in fact any other department of Government—should not be subject to dismissal on the word of gossiping tale-bearers. We quite recognize that inefficient officers should not be retained on the penitentiary staff. We also recognize that it is not in the interests of the administration of the staff that each officer should be entitled, in all cases, to show cause why he should not be dismissed. On the other hand, common justice demands that, when an officer is found inefficient, he should be entitled to learn the reason for his release, and, when he has been released on account of any special neglect of duty or misconduct, he should not be found guilty of that neglect or misconduct and a report made against him without his being given an opportunity to explain his conduct.

Having regard to the great number of officers released in so short a period (in some penitentiaries a very heavy percentage of the staff) and

the manner in which they were released, your Commissioners recommend that the officers who have been summarily retired from the staff without special cause should be given an opportunity to qualify for re-engagement under the conditions for the engagement of penitentiary officers provided in this report. We are of the opinion that, if these officers can meet the requirements demanded, according to the principles that are herein laid down for the engagement of penitentiary officers, the fact that they have previously been released from the service should not militate against their subsequent engagement. In the event of there being specific cause for retirement, however, no officer should be re-engaged whose record is such as would indicate the improbability of his becoming a good penitentiary officer.

In order to strengthen the morale and security of the staff in the future, your Commissioners recommend that rules be adopted governing the termination of services of officers similar to those in force in England. The relevant rules, not dissimilar to those governing many police forces, are as follows:

" 667. An officer who is in danger of dismissal shall have the right of a personal hearing, if he so desires, by the Commissioners, or one of them, before a decision on his case is formed. This will not, of course, apply to the case of a conviction of a serious offence before a Court of Law."

" 670 (1) (a) When an officer is charged with an offence he will be reported to the Governor, and will be called upon to write his reply on the report, but he will first be allowed to see all the information against him, so that he may know exactly what he is accused of, either by the reporting officer or by the officers who have made statements in support of the charge. The report will be carefully investigated by the Governor and settled by him, if the case is within his powers.

(b) No adjudication will be made until the officer has been interviewed.

(c) Reports for being late should be dealt with on their merits, in the same manner as a report for any other dereliction of duty.

(d) In cases where an award is not made under Order 669, the reasons will be briefly recorded on the report sheet.

(2) If the Governor on consideration of the reports, and after interviewing the officer is satisfied that the offence has been committed, and that it is one which his powers of punishment cannot sufficiently meet, he will report the officer to the Commissioners, suspending him if, in his opinion, the offence is of such a grave nature that the officer should not continue to perform duty. In transmitting the report and the evidence with the officer's defence and "record of service," the Governor will set forth the facts upon which the charge is based in such manner as will put the Commissioners in full possession of the main features of the case which the

information enclosed is intended to support in detail. The Governor will also report as to the general character, trustworthiness and efficiency of the officer, as such knowledge is essential to the Commissioners for a proper adjudication of the case. When the decision of the Commissioners has been received it will be communicated to the officer by the Governor, either verbally or in some other manner not open to general inspection. The Governor will, if desired, allow the officer to have a copy of the actual words of the Commissioners conveying the decision, and to see the report which was made to him. (337, 338, 296, 582.)

(3) Where an officer has been suspended from duty, the Governor will, on the report to the Commissioners (338) request the instructions of the Commissioners as to payment of salary to the officer in respect of the period of suspension and pending receipt of such instructions no payment will be made in respect of such period.

(4) Reports against officers will be filed in the Governor's office and will accompany the record of service on transfer. They will be destroyed when seven years old.

(5) All awards by the Governor or by the Commissioners will be recorded by the Governor in the officer's record of service."

ACCOUNTING POLICIES

The present accounting system was inaugurated in 1934. The Penitentiary Branch receives a duplicate form covering all entries, with the exception of those between the different store accounts, which are recorded in the books of account at each penitentiary. In addition, a summary of all transactions is forwarded each month, and duplicate sets of accounts for each penitentiary are kept in the Branch by a representative of the Treasury. By virtue of this arrangement, a verification, or audit, of the transactions in the individual penitentiaries is practically reduced to an audit of the stores on hand. A periodical inspection is made to ensure that the procedure is being carried out in accordance with standing instructions sent out by the Branch. These appear to be comprehensive and complete.

All cash received on account of the penitentiaries is immediately deposited to the credit of the Receiver-General. These receipts come mainly from the sale of custom work, farm products, and work done for Government departments, such as mail bags, etc.

Disbursements made through petty cash are carried on the imprest system, and a nominal limit is fixed which, however, may be exceeded when a number of prisoners are being released and disbursements are necessitated which exceed the limits of the fund.

There is also the "Convicts' Trust Fund," but this is kept in a special trust account in the bank, and withdrawals can only be made on the applications of prisoners, when approved by the warden, the Superintendent, or the Minister, or Deputy Minister of Justice.

The accounts provide a proper classification covering expenditures as follows:

- Capital investment;
- Capital disbursements;
- Fixed assets covering land, buildings, and equipment;
- Stores account;
- Cash account;
- Maintenance charges for buildings and equipment;
- Convicts' maintenance;
- Shop activities;
- Executive and administrative expenses;
- Revenue.

These divisions are all classified under a complete series of accounts whereby analysis and comparison may be made when and where necessary.

All stores and supplies for each penitentiary are requisitioned through the Branch on a calendar basis, which provides a classification of the items normally handled throughout the year. This makes it necessary for the store-keeper to requisition his requirements of standard specified items in each month by the year.

Under this system, the responsibility of placing orders, settling prices, etc., rests with the purchasing agent at Ottawa, who is responsible to the Minister and his deputy. The general store-keeper in each penitentiary receives a copy of the order placed for his particular institution, and must see that the goods delivered are in accordance with it in quality and price.

In each penitentiary there is a general store-keeper and assistants in charge of the general stores. Records are provided to keep a constant check on, and running inventory of these. Probably due to lack of proper facilities, and also for the purpose of convenience, stores are released by the store-keeper to the different shop instructors, the steward, and the officers in charge of the change room, hospital, engineering department, etc., who are provided with similar records to account for the stores and supplies passed through their hands, or still in their custody, and these officers are required to take a monthly inventory, which is checked against the stores ledgers kept by them. It has been found that this routine is not followed, and your Commissioners believe that it is not practicable to do so under present conditions. It would be much better if proper stores facilities were provided, preferably outside the walls of the prison, under the complete charge and control of the penitentiary store-keepers. Releases could then be made as necessary, and the stocks in the miscellaneous stores depot would be reduced to an absolute minimum, or entirely eliminated.

In the general books of account kept by the accountant, stores control accounts covering each stores depot are maintained. Your Commissioners recommend that a periodical physical check of each stores depot be made by, or in the presence of, the accountant or his assistant, in order to verify balances carried by him in his ledger. In Kingston and St. Vincent de Paul penitentiaries, when a new inventory is taken, all store inventories,

with the exception of the penitentiary stores, are checked by the accounting department. The penitentiary stores are not physically verified by the accountant at any time. In Collin's Bay Penitentiary the general storekeeper maintains, under his own custody, a separate store-room in the steward's department, and he is present, and checks the receipt of those stores, such as meat, bread, etc., which are actually going into immediate consumption, and which are at once released to the steward. Your Commissioners strongly recommend that such a procedure be established in all other penitentiaries.

As already noted, the purchase of stores and supplies is based on requisitions emanating from the individual penitentiaries. As their consumption represents a very large part of the expense of operating the penitentiaries, they should be under complete control as to proper use and the prevention of unnecessary accumulations. Proper facilities for storage and handling are also essential, and this matter has been given much attention by the Branch. Circular 48, of June 24, 1937, outlined an improved system, which, it was stated, would provide a more complete record and analysis of the consumption of foodstuffs, and so ensure a better control of this important item of expense.

The instructions provide for control of repair shops, capital additions, and purchase of equipment, by making it necessary to apply to Ottawa for everything. This procedure is quite correct, but, in view of the unnecessary correspondence it would entail, it should not be applied to minor repairs. All construction work is carried out by the prisoners under the immediate direction of the technical staff and the supervision of the chief engineer of the Branch. Some of these projects, such as at Collin's Bay and St. Vincent de Paul, are very extensive and run into substantial sums. Careful planning and co-operation between all officials is therefore necessary to prevent a waste of time and money and, as pointed out in another chapter, a plan, and "set-up" specifications, covering all other necessary details, should be made at the inception of such work. Unfortunately, this has not been done, and avoidable delays in the completion of construction projects, which were due to the absence of a complete initial plan and proper organization of the work, have been brought to the attention of your Commissioners. Another reason why this has not been done may be that the chief engineer's staff does not include the necessary number of technical assistants required. This condition should be rectified.

Service charges, covering such items as electric light and power, maintenance of prisoners in outside institutions, medical fees, etc., are verified and recorded in the account books. Three times each month these items are listed, with duplicate invoices, and are forwarded to the Branch for payment.

The industrial and farming operations carried on at the penitentiaries are well covered by the records and books provided by the system now in use. In the opinion of your Commissioners, however, the records for all these activities should be maintained in a central office in charge of a

competent accountant. To a certain extent, this is carried out in Kingston and St. Vincent de Paul, and there is no reason why records covering all such activities should not be similarly centralized in every penitentiary. Such centralization would release the instructors from this extraneous responsibility and allow them to devote more time to the instruction of the men under their charge.

Your Commissioners believe that, by eliminating duplication of accounting, the work could be made less complicated and burdensome. This suggestion would also apply to the local control of expenditures and the book-keeping work involved, which would be greatly lessened by the elimination of duplicate records.

Estimates are made on the basis of purchases, rather than on that of requirements for consumption; thereby implying that, whereas the accounting records are kept on a revenue and expenditure basis, the budget is prepared on a cash basis. Your Commissioners are of the opinion that the budget and the accounting records should be on the same basis—that of revenue and expenditure. Otherwise, the whole object of budgetary control is not obtained.

Your Commissioners found that there is a lack of uniformity in the classification of the estimates for maintenance expenditures. Instead of being classified according to category of expenditure, as shown in the book of accounts, the estimates of maintenance expenditures are classified by shops, giving the details for material to be used during the next twelve months. Consequently, the comparison of budgetary estimates with monthly trial balances is almost impossible, and the benefits of budgetary control are diminished accordingly.

Your Commissioners recommend a standard procedure for all shops. Lack of uniformity in procedure affects the degree of control that can be exercised over materials in stock in the various stores and the accuracy of the charges.

Your Commissioners believe that proper accounting records should be kept to show the complete cost of maintenance of prisoners, including supplies, custody, interest on investment in plants and buildings, etc., so that accurate information in this regard may always be available to the public.

Further details of the accounting system, and recommendations for its improvement, will be found in two reports made by experienced chartered accountants who, on the instructions of the Commission, conducted a survey. These reports, from which most of the above data has been taken, are filed in the offices of the Commission.

STAFF

Superintendent

The office of Superintendent of Penitentiaries has been held by General D. M. Ormond since August 1, 1932. Prior to his appointment, he was District Officer commanding Military District Number 13, performing the duties and holding the rank of colonel, with the honorary

rank of brigadier-general. From February 3, 1920, to August 1, of the same year, he was Superintendent commanding "A" Division of the Royal Canadian Mounted Police. Prior to that appointment, he had been on active service with the overseas forces during the Great War. He is a member of the Manitoba Bar, to which he was called in 1909.

When the Superintendent assumed office he introduced into the penitentiary system a more drastic policy of militaristic control than had prevailed during the previous administrations. The character of this policy has already been dealt with. The action taken to divest experienced wardens of authority, even in the most trivial and inconsequential matters, and to subject them to a minute direction in detail, and the profuse issue from day to day of new regulations and lengthy circulars, explaining, countermanding, and amending previous ones, soon threw the whole penitentiary system into a state of confusion. We regret to find that it has continued in the same state ever since.

The Superintendent, who was without experience, has since made no effort to call the wardens into consultation or to hold annual wardens' conferences, such as had been the custom under previous administrations. Within a year of his appointment, such friction developed that it resulted in the retirement of two of the three inspectors.

Early in 1934, the revised regulations, which had been hastily compiled and ill-considered, were issued. The number of regulations was increased from 194 to 724; they were drafted without the assistance or advice of experienced officers, and, although only seven or eight copies were immediately available at even the largest penitentiaries, they were issued with peremptory instructions to put them into force. The result was that officers throughout the penitentiary service were required to enforce a voluminous, and in many cases obscure, code of rules governing their own conduct and the conduct of the prisoners, without even having had an opportunity to read them. As has been pointed out, when one warden asked that the enforcement of the new regulations be postponed, he was immediately threatened with dismissal.

In the interpretation of these regulations, the Superintendent has in many cases put an unduly severe construction upon them, and, in some instances, he has deliberately violated their terms, with consequent unwarranted hardship to the prisoners.

In Kingston Penitentiary, a number of prisoners were placed, on the direction of the Superintendent, in what was called "segregation." This did not amount to mere isolation of the prisoners from the rest of the population, but was, in fact, although not so called, a form of punishment. Many were not allowed normal employment, and were deprived of some of the ordinary penitentiary privileges. We can find no authority for this course in the penitentiary regulations, nor was the Superintendent able to justify it, to our satisfaction, in his evidence before the Commission. Many of these prisoners were kept in, what might almost be termed, solitary confinement (although not in punishment cells)—some for a period of over two years.

Regulations 66 and 67, which provide for what is called "Disassociation," are as follows:

"66. If at any time it appears to the Warden that it is necessary or desirable for the maintenance of good order or discipline, or in the interests of the convict, that he should not be employed in association, the Warden may arrange for him to work temporarily in a cell or other place, and not in association. The Warden may take action but shall report any such case to the Superintendent for approval and direction.

67. It shall be in the discretion of the Warden to arrange for such dissociated convicts to be again employed in association when he considers it desirable, and he shall in any case so arrange at the expiration of one month from the commencement of the period of dissociated employment, unless further authority is given from month to month by the Superintendent."

The object of these regulations is to remove from the penitentiary population prisoners who may be agitators, or of an incorrigible type, and a disturbing element to the maintenance of discipline in the institution. We quite recognize the necessity of these regulations, but regulation 67 is important, and it is necessary that it should be observed. In the cases above referred to, this regulation was not observed, and the prisoners were kept segregated for long periods without any steps being taken to obtain the necessary authority.

The Superintendent contended before the Commission that these regulations did not apply to the prisoners in question, and maintained that the object of these regulations was to permit the wardens to give solitary confinement without a trial. We do not agree that this is a correct interpretation, and, if it is, we are of the opinion that such drastic power ought not to be in the hands of the wardens, because it is contrary both to the spirit and the letter of regulations otherwise dealt with in this report.

The Superintendent submitted to the Commission that the manner of dealing with these prisoners was covered by the power vested in the classification boards. The fact is that the Superintendent did not leave the matter to the classification boards, but overrode them and the regulations in regard thereto by issuing orders that certain prisoners should be placed in "permanent segregation," and that others should be "indefinitely segregated." The matter was taken out of the hands of the classification boards, and they were given no opportunity to review the cases of these prisoners, or to consider when they should be removed from the so-called "segregation" and restored to the ordinary penitentiary population.

The expressions contained in correspondence affecting many of these prisoners indicate an unduly vindictive attitude of mind. In one letter, addressed to a warden, the Superintendent used the following language:

"Undoubtedly you will receive many complaints from these convicts wishing to know why they should be placed in the east

cell block. It is not necessary for you to give them any information. If any information is given nothing more is necessary than to say that that is a part of the penitentiary in which it has been decided to confine them."

In regard to these prisoners, the Superintendent was asked whether the classification board should not meet regularly to consider these men and determine whether or not they should be kept in segregation. He agreed that it should be done, but that it had not been done to his knowledge. The direction to keep prisoners in permanent segregation does not indicate that he expected such a course to be taken. The Superintendent did not, from the year 1935 to September, 1937, visit the part of Kingston Penitentiary where these prisoners were confined. In our opinion, this shows a callous attitude and a clear neglect of duty.

The regulations governing the trial and punishment of prison offences were drawn up by the Superintendent, and were the object of a detailed brochure of instructions. Regulation 162 is as follows:

"162. A convict shall not be punished until he has had an opportunity of hearing the charge and evidence against him and of making his defence."

Notwithstanding the explicit provision of these regulations, we found it gravely violated, under the direct authority of the Superintendent, in a serious case involving corporal punishment at Kingston Penitentiary.

The warden had tried one, Price, a prisoner, on a charge of "attempting to incite trouble," and had found him guilty of two other offences mentioned in the regulations but not included in the description of the offence in the charge. He was sentenced to be flogged with 20 strokes of the leather strap. The warden reported the matter fully, as he was required to do, and forwarded a copy of the evidence to the Superintendent for confirmation of the sentence before it was executed.

We have perused the evidence and, in our opinion, it was not such as would have supported a conviction in a court of appeal, even for the offences of which, although he was not charged with these offences, the prisoner was found guilty. Notwithstanding this, the Superintendent, in a long letter to the warden, reviewed the evidence in detail, the manner in which it had been given, and suggested the form of answers the guards should have given. He pointed out that the offences for which the prisoner had been found guilty were not covered by the charge. Notwithstanding this, his letter states:

"A perusal of the evidence would appear to indicate that Price was guilty of the following, under Regulation 165,"

and sets out four separate offences. This was followed by the following statement:

"Copy of the evidence is returned herewith, and would appear to support the charges as redrawn."

The letter concludes:

"It is considered that Price has been sufficiently put on his trial under the charges as now re-drawn, and that he is guilty of gross misconduct requiring to be suppressed by extraordinary means.

Your award of:

(1) Twenty strokes of the leather strap, ten (10) strokes to be administered immediately, and ten (10) strokes suspended, under the provisions of Regulation 231; and

(2) Twenty-one (21) days No. 2 diet; is approved.

It is presumed that this convict will be kept segregated indefinitely."

When the Superintendent appeared before your Commission, he was asked to explain the course taken in this matter. The following are relevant extracts from the evidence:

"Q. Now General, how do you expect the wardens to carry out the instructions contained in the brochures or lectures or anything else, when the Superintendent convicts a man and authorizes his punishment on charges upon which he has never been tried?

A. I see your point in that.

Q. It is not a question of seeing the point. Can you expect the wardens to deal with things regularly in the face of that? What was your justification for authorizing punishment for a man on a charge he had never been tried on?

A. With that letter as it stands, obviously your point of view is correct.

* * * *

Q. Frankly, I expected another answer than that, General. Do you realize the seriousness of this matter? Here is a man who is found guilty on what I think might be termed an indictment. You write a letter to the warden telling him that that is not the way the man should have been tried, and you find him guilty on something else, on a more serious charge?

A. I agree.

Q. And then you agree with the judgment that corporal punishment should be inflicted?

A. Yes, sir. The only explanation I have to offer is that the words used in the paragraph which says what you say it says—I admit the letter as it stands is wrong in every way."

Regulation 162 has the force of law. Your Commissioners cannot come to any other conclusion than that this prisoner was illegally flogged at the direction of the Superintendent, whose duty it was to review the findings of the warden but who had no legal right to substitute the new charge and to pass a finding on that charge without giving the prisoner an opportunity to defend himself. It is an elementary principle in the administration of criminal justice, which has prevailed in British countries for centuries, that no person shall be found guilty or punished for an

offence without being properly charged and convicted at a trial where he has had an opportunity of hearing the charge and presenting a defence.

The same prisoner involved in this incident had previously complained to the Superintendent, on an occasion of his visit to Kingston Penitentiary, that he had been badly manhandled by a guard. Notes on file, made by the Superintendent at the time, are:

“Case investigated. This man ‘faker,’ was perhaps badly handled by guard—but not hurt.

D. M. O.”

There is no suggestion that the guard was ever reprimanded for badly manhandling the prisoner, and the investigation apparently closed without further consideration of the matter.

This is the same prisoner who was shot during the disturbance in 1932. His case is fully dealt with in Chapter VII of this report. He is a young man who has several times been convicted for crime and, for the purpose of this report, may be assumed to be an incorrigible offender, but, nevertheless, there is no place in our administration of justice for the treatment he has received at the hands of the prison authorities. He was shot without legal justification, flogged illegally on charges on which he had never been tried, assaulted by a guard, and kept indefinitely in segregation. All these matters came directly to the attention of the Superintendent, and he was directly responsible for the irregularity of the flogging and indefinite segregation. He failed to treat the other matters with the justice appropriate to his important position.

In the opinion of your Commissioners, it is incumbent on those engaged in the administration of justice to see that its officers are ever vigilant in obeying the law. No place is this vigilance more necessary than in the administration of a prison system. Prison officials must necessarily be vested with great authority, and this authority must always be exercised with wisdom and restraint. Its unlawful use can never be tolerated. Prisoners are as much entitled to the protection of the law as any other members of society. Our system of administration of law depends on public respect for those who administer it. Wanton and unlawful acts by prison officials toward prisoners are degrading, and bring the law into disrepute. They also tend to develop violent and incorrigible prisoners.

The Superintendent has been required by the provisions of the Penitentiary Act to make an annual report to the Minister of Justice:

“The Superintendent shall make an annual report to the Minister on or before the first day of September in each year, *which shall contain a full and accurate statement of the state, condition and management of the penitentiaries* under his control and supervision for the preceding fiscal year, together with such suggestions for the improvement of the same as he may deem necessary or expedient, accompanied by such reports of the officers of the penitentiaries, and financial and statistical statements and tables as he deems useful or as the Minister directs.”

This report is printed, and laid before both Houses of Parliament. It is circulated widely. Your Commissioners regret to find that many of these reports have been gravely misleading in important matters affecting penitentiary management. Recent reports have been so drawn as to indicate that prisoners are effectively classified, that a complete system of training of young offenders, comparable to the Borstal system in England, is in effect in the penitentiaries, that the prisoners receive competent vocational training, and that a comprehensive system of education is in effect. The annual report of 1935 states:

“During the first month that a convict is in a penitentiary, he is classified, his educational standing being one of the principal points ascertained from the examination held and tests applied.”

The annual report of 1936 states:

“The Classification Board in each penitentiary has been functioning satisfactorily.

Following the policy advocated for many years, the actual segregation of convicts under twenty-one years of age was brought into effect. This segregation included all “A” Class convicts and “C” Class convicts under twenty-one years of age.”

The report of 1935 contains an elaborate report of the Superintendent on his study of the “Borstal System” of England, and a statement of “the arrangements presently being put into effect” in regard to the treatment of young offenders. The report states:

“The type and nature of treatment for young convicts will follow as closely as possible that presently existing in the Borstal institution of England.”

In reference to the officers to be in charge of young prisoners, the following statement is made:

“Each supervisor will be called upon to have an intimate knowledge of the history, character, disposition and capabilities of approximately thirty young convicts.

It will also be necessary for him to carry on correspondence with their relatives and other persons who may be in a position to give useful information considered to be essential in the treatment to be applied to each individual.”

In the report of March 31, 1936, the segregation of the young prisoners is detailed, and the following statement is made:

“This segregation has necessitated the detailing of specially selected officers to supervise the young convicts, this being one of the reasons for the retention of officers in excess of the minimum authorized establishments.”

In the report of 1937, the following statement is made:

“The segregation of young convicts is now accepted by the penitentiary staffs as an ordinary and routine practice, the results of which are reported to be beneficial.”

As indicated in our report, such statements as these are entirely misleading in form and substance, and convey erroneous impressions to the public in respect to the treatment of young prisoners.

The report of 1935 contains the following statement:

"Vocational training is carried on throughout the whole year, and includes agriculture, carpentry, metal-work, motor mechanics, plumbing, painting, plastering, and all kindred building trades, tailoring, shoemaking, laundry work, cooking, catering, steam power plant management, water supply and sewage disposal. Vocational training is augmented by well equipped libraries for extensive research work, advanced and intensive studies."

In the opinion of your Commissioners, it was unfair to the Minister and to the public, and unjust to those who might be sentenced to serve terms in the penitentiaries, that the Superintendent should so describe the work carried on in the shops of Canadian penitentiaries.

In the report of 1935 the Superintendent states:

"Changes and expansions have been made from time to time, until to-day each penitentiary has a program which covers every subject taught in the public schools, plus correspondence courses. Extra-mural university courses have been arranged in three penitentiaries. . . .

Students following correspondence and extra-mural university courses are guided and aided in their studies outside of the hours that they are employed in the shops or at other work."

In the report of 1937, under the heading of individual penitentiaries, it is stated that "the school functioned in accordance with the regulations and instructions." A cursory inspection of the institutions and a perusal of wardens' reports show conclusively that this is not a correct statement.¹

In January, 1936, in the case of *Rex vs. Carter and Goodwin*, the members of the Court of Appeal of the Province of Alberta had some doubts as to whether young prisoners in the Saskatchewan Penitentiary were afforded an opportunity of learning a trade, and, as a result, a telegram was sent to the warden, requesting information as to whether these young men would be enabled to learn a trade if they were to be confined in that penitentiary. The warden telegraphed to the Superintendent, quoting the telegram from the Court of Appeal, and the Superintendent wired directly to the Assistant Deputy Attorney General of Alberta as follows:

"*Re* Appeal Court cases William Carter and Harold Goodwin stop Convicts under twenty-one years completely segregated in separate corridor with separate exercise yard stop Youths employed manual labour not less than six months after which assigned to agriculture construction building trade or shop depending upon capability and conduct stop Institution not overcrowded."

¹ See Chapter VIII for details.

On receipt of this telegram, the Court of Appeal confirmed sentence of two years' imprisonment in the penitentiary. Your Commissioners do not believe that the above telegram correctly answered the inquiry of the Court of Appeal. It is quite apparent that, under conditions as they are at the present time in the Saskatchewan Penitentiary, young prisoners are not given an opportunity to learn any trade whatever. They have the opportunity of taking part in any construction work that happens to be in progress, but they are not assigned to shops and the instruction they receive in particular trades is practically negligible. Your Commissioners consider that the telegram to the Assistant Deputy Attorney General is seriously misleading.

It has not been uncommon to read in the press that judges and magistrates, in sending young prisoners to penitentiary, have declared that they are sending them "where they will learn a trade." The gravity of publishing reports that mislead the public in this manner requires no further comment.

The evidence of the Superintendent before the Commission occupied eight days. He was given every opportunity to go into all phases of prison administration, and has since supplied the Commission with voluminous memoranda on matters discussed during his evidence and concerning which he was of the opinion that further information ought to be supplied. We have had ample opportunity to discuss with him the many matters drawn to our attention affecting his administration of the penitentiaries, and to consider his knowledge of penology, his disciplinary methods, his personality, and his general fitness for the office he holds. His evidence before your Commission was not satisfactory. It was characterized by long, irrelevant, and often evasive answers to simple questions.

He has displayed an irritating manner of exercising authority which, we are convinced, has been reflected, not only in the discipline of the penitentiary staff, but in that of the inmates, and, in our opinion, this was one of the major contributing causes of the sixteen riots or disturbances which have taken place since the Superintendent assumed office.

The Superintendent's particular part in the unsatisfactory aspects of the administration of the penitentiaries is referred to in detail throughout this report. His record since he took office has not been a success. He has displayed great diligence in exhaustive attention to a multitude of details, but he has, in the opinion of your Commissioners, failed to grasp fundamental principles so essential in the performance of the important executive duties connected with the office of Superintendent. He has completely lost the confidence of the staffs of all the penitentiaries and, without this, no administration can succeed. Your Commissioners are of the opinion that it is necessary to the good management of the penitentiary service that the Superintendent should immediately be retired, and they recommend accordingly.

Inspectors

Of the three inspectors now in the penitentiary service, J. D. Dawson, G. L. Sauvant, and E. L. O'Leary, neither Inspector Dawson nor Inspector O'Leary was possessed of any experience in a penal institution prior to appointment.

Inspector Dawson was a chartered accountant at the time of his appointment in July, 1933. He served overseas with the Canadian Expeditionary Forces. He has seldom been engaged in examining or reporting upon the state and management of the penitentiaries. In 1936, in company with Inspector O'Leary, he held a hearing to receive the complaints of about twenty prisoners, but he made no report on the subject to the Superintendent; the only report being made to the warden. He has never inspected the operation of any classification board, and his duties have been almost altogether confined to accounting work at the Branch and the supervision of accounting practices in the various institutions. Inspector Dawson was co-signer with ex-Inspector Craig of the discreditable report,¹ which was made as the result of an investigation into the alleged shooting into the cell of Timothy Buck, and was also responsible for a very unsatisfactory report on the shortage of coal at Kingston Penitentiary.²

Inspector J. L. Sauvant entered the penitentiary service in 1928, as teacher and librarian at St. Vincent de Paul Penitentiary. He was warden's clerk there in 1929, and appointed an inspector in July, 1934. He has been acting warden at St. Vincent de Paul Penitentiary since September, 1937. Inspector Sauvant is a university graduate, and, previous to his appointment as teacher and librarian at St. Vincent de Paul, had been instructor in the French language and other subjects at the Royal Military College at Kingston, Ontario. He also served in the French army from 1915 to 1919. He has made inspections only as, and when, instructed by the Superintendent. He has never interviewed any prisoners, and has made but two general inspections of the state and management of the penitentiaries (Dorchester and St. Vincent de Paul), and he has not inquired into the operation of any classification board. Inspector Sauvant prepared a brief for your Commission which contained some very valuable suggestions.

Inspector E. L. O'Leary had no experience in the penitentiary service before he was appointed inspector in April, 1933. He served with the Canadian Expeditionary Force, and, after his demobilization and before entering the penitentiary service, he was engaged in accounting work. He was specially assigned to the supervision of penitentiary industries. In January, 1936, he made a very thorough inspection of St. Vincent de Paul Penitentiary, reporting on the general conditions, discipline, and the functioning of the different departments of the penitentiary. He reported that the discipline at this penitentiary was too rigid in its application to the relations between the warden and the officers under him, and that the warden had not the requisite human

¹ See Chapter VII.

² See Chapter XXIV.

attitude toward staff or inmates. For this opinion he was sharply criticized—we think unjustly—by the Superintendent. Inspector O'Leary prepared a brief for the Commission, in which he dealt with different phases of the penal system and made some useful suggestions.

In all fairness to the inspectors it should be stated that they have only acted on specific instructions from the Superintendent and, although Inspectors O'Leary and Sauvant would have preferred to make more thorough inspections, as required by the Penitentiary Act, they were not given the opportunity to do so. They had no time to study such matters as they would have liked to study, and most of their time has been taken up with voluminous correspondence. They have not been invited by the Superintendent to confer with him on matters of policy or on questions relating to the betterment of the Canadian penitentiary service.

The work of the three inspectors leaves much to be desired. Inspectors O'Leary and Sauvant have been so limited and restricted in authority, and so largely confined to clerical work in the Penitentiary Branch, that it is difficult to judge their capabilities. Inspector Sauvant will have full scope to demonstrate his ability as acting warden at St. Vincent de Paul Penitentiary. We believe that Inspector O'Leary has not had an opportunity for development.

Inspector Dawson is the senior inspector. He has always worked in closer co-operation with the Superintendent than any of the other inspectors. While he may have qualifications as an accountant, we do not believe that he has proved himself a good penitentiary officer. He has had greater opportunity to show his ability than the other inspectors, and he has failed to do so. When assigned the duty of making important inquiries, he failed to perform his duty in a creditable manner, as otherwise indicated in this report.¹ He appears to have little knowledge of penology or practical penitentiary management. We do not believe that he has the capacity or temperament to fulfil the important office of inspector. Your Commissioners are of the opinion that he should be transferred to some other department of the Government service, where his accounting experience could be made full use of.

¹ See Chapter VII.

CHAPTER V

PRISON DISCIPLINE

DISCIPLINARY OBJECTIVES

Discipline should never be confused with punishment. It is a system of training, with the object of inculcating obedience to rules and respect for authority, and its intended effect is orderly conduct. Punishment, on the other hand, is the treatment given to those who infringe the rules.

In a penal institution, discipline applies to the staff as well as to the inmates. Two sets of rules are enacted by the authorities, one for the staff, and one for the inmates. These rules should be based on the principles of modern penology, as interpreted by our Penitentiary Act: first, the detention of prisoners in safe custody and, second, their reformation and rehabilitation. In enacting these rules, and in putting them into practice, this dual objective must constantly be kept in mind, and, in this connection, classification is of the utmost importance because the same supervision and custodial care are not required for all inmates, and the chances of success in reforming them vary widely.

It necessarily follows that one set of regulations for all penitentiaries, applying indiscriminately to all institutions and to all offenders, whether young offenders, accidental offenders, first offenders, recidivists, or incorrigibles, is bound to be unsatisfactory. When there are 724 regulations, which are by no means easily understood, and these are further supplemented, and at times confused, by more than 800 circulars and numerous brochures, the unsatisfactory nature of this set of regulations may well be understood. Comments on some of the present regulations will be made later in this report, but, at present, it is sufficient to state that they should be simplified, and that they should apply more particularly to the peculiar conditions existing in each institution. Your Commissioners trust that the treatment that is eventually prescribed will be based upon a sound and beneficial system of classification and segregation, such as is hereinafter recommended.

The regulations provide so many trivial offences that may be punished in a drastic manner that it is almost impossible for prisoners to avoid committing some punishable breach of the rules. It is, therefore, necessary for them to exercise constant vigilance and to evolve methods of avoiding punishment. They soon become expert in the practice and, on release from prison, carry with them a habit of concealment. Dealing only for the moment with those who are reformable, as opposed to incorrigible and habitual offenders, the present prison system is bound to result in a gradual demoralization of those subjected to it. They become spiritually, as well as physically, anaemic, lazy, and shiftless, physically and mentally torpid, and generally ineffective and unreliable. The maze of offences through which the prisoner must thread his way, and the

extent and variety of the punishments which may be inflicted upon him, are apparent from the following list of regulations:

“No. 163

A convict shall be guilty of an offence against Penitentiary Regulations if he:

1. Assault any Penitentiary officer, employee, or servant;
2. Disobeys any order of the Warden, or any other officer, or any Penitentiary rule;
3. Treats with disrespect any officer of the Penitentiary, or any visitor, or any person employed in connection with the Penitentiary;
4. Is idle, careless, or negligent at work, or refuses to work;
5. Is absent without leave from chapel or school;
6. Behaves irreverently in chapel;
7. Swears, curses, or uses any abusive, insolent, threatening, or other improper language;
8. Is indecent in language, act or gesture;
9. Commits a common assault upon another convict;
10. Converses or holds intercourse with another convict except during the times and periods permitted, or makes signs or motions to him;
11. Sings, whistles, or makes any unnecessary noise, or gives any unnecessary trouble;
12. Leaves his cell or other appointed location, or his place of work, without permission;
13. Leaves the gang to which he has been attached without permission;
14. Enters the cell of another convict, unless by permission and in the presence of an officer; or looks into cells, or loiters on galleries when passing to or from work;
15. In any way disfigures or damages any part of the penitentiary, or any article to which he may have access, or upon which he has been ordered to perform work, or which has been issued to him;
16. Commits any nuisance;
17. Has in his cell or possession, or takes into or out of his cell, any money, or any article or articles whatsoever other than such as are permitted;
18. Gives to or receives from any convict or any other person any article whatsoever without the permission of an officer;
19. Speaks to or communicates with any visitor except with the permission of an officer;
20. Converses or holds intercourse with an officer on any matter not connected with his work, the duties of the Penitentiary or a proper request regarding his treatment;

21. Neglects to keep his person, clothing, bedding, and cell clean and neat;
22. Is at any time in any place where he ought not to be, or has not received permission to be;
23. Offers to an officer a bribe of any kind whatsoever;
24. Neglects to shut the gate of his cell after entering;
25. Neglects to rise promptly on the ringing of the first bell in the morning;
26. Neglects to go to bed at the ringing of the retiring bell;
27. Gives another convict any offence;
28. In any way offends against good order and discipline;
29. Attempts to do any of the foregoing things."

To these must be added a further twenty-five "Rules of Conduct and Prison Offences," contained in appendix I of the penitentiary regulations, and listed in a notice supplied to each inmate, making fifty-four offences in all, some of which appear to be repetitions of those listed in regulation 163. These are as follows:

- "1. All privileges are dependent upon conduct and industry.
2. A convict shall not converse or hold intercourse with another convict except during the times and periods permitted.
3. He shall promptly and unhesitatingly obey the orders of the Warden or any other officer.
4. He shall treat with respect all officers, all visitors, and all persons employed in connection with the Penitentiary.
5. He shall not speak to or communicate with any visitor, nor give to or receive from such visitor any article whatsoever, except with the permission of an officer.
6. He shall not leave his cell or other appointed location, or his place of work, without permission.
7. He shall keep his person, clothing, bedding, and cell clean and neat.
8. He shall not waste, damage, or destroy, nor attempt to waste, damage or destroy any material upon which he is employed, and shall keep in good order all tools and implements entrusted to him.
9. He shall not give to, or receive from, nor attempt to give to or receive from, another convict, or any other person, any article whatsoever without permission.
10. He shall not commit any nuisance.
11. He shall in no way disfigure or damage, or attempt to disfigure or damage, any part of the Penitentiary.
12. He shall not refuse to work, nor be idle, careless, or negligent at work.
13. He shall not be absent without leave from chapel or school.

14. He shall behave reverently in chapel.
15. He shall not offer to an officer a bribe of any kind whatsoever.
16. He shall not swear, curse, or use any abusive, indecent, insolent, threatening, or other improper language, nor be indecent in act or gesture.
17. He shall not sing, whistle, or make any unnecessary noise, or give any unnecessary trouble.
18. He shall not have in his cell or possession, nor take into or out of his cell, any unauthorized money, or any article or articles whatsoever other than such as are permitted, and any unauthorized money, or any article other than an article the property of the Penitentiary, discovered in his cell or possession shall be forfeited to the officer discovering the same.
19. He shall not at any time be in any place where he ought not to be or has not received permission to be, and shall not enter the cell of another convict unless accompanied by an officer.
20. He shall hold communication with the officer in charge of him only on matters connected with his work, with the Physician only on matters connected with health, and the Chaplain only on spiritual matters.
21. He shall approach an officer in a respectful manner, and if desiring to speak to him, he shall address the officer as "Sir," and stand at attention while speaking to him.
22. He shall not look into cells, nor loiter on galleries while passing to or from work.
23. He shall exercise great care in the use of books, periodicals, papers, playing cards, or other articles permitted to him for cellular diversion, and shall not write in, destroy, mar, deface, nor disfigure them or any of them.
24. He shall shut the gate upon entering his cell.
25. He shall rise promptly on the ringing of the first bell, make up his bed, and clean and put his cell in order. He shall retire to bed promptly on the signal being given for that purpose."

These are considerably in excess of the number of offences provided by the rules of England, which number seventeen:

- " 1. Disobeys any order of the Governor or of any other officer of the prison, or any prison rule.
2. Treats with disrespect any officer or servant of the prison, or any person authorized to visit the prison.
3. Is idle, careless, or negligent at work, or refuses to work.
4. Swears, curses, or uses any abusive, insolent, threatening or other improper language.

5. Is indecent in language, act, or gesture.
6. Commits any assault.
7. Communicates with another prisoner without authority.
8. Leaves his cell or place of work or other appointed place without permission.
9. Wilfully disfigures or damages any part of the prison or any property which is not his own.
10. Commits any nuisance.
11. Has in his cell or possession any unauthorised article, or attempts to obtain such article.
12. Gives to or receives from any person any unauthorised article.
13. Escapes from prison or from legal custody.
14. Mutinies or incites other prisoners to mutiny.
15. Commits gross personal violence against any officer or servant of the prison.
16. In any way offends against good order and discipline.
17. Attempts to do any of the foregoing things."

PUNISHMENT FOR PRISON OFFENCES

Punishment for prison offences are contained in regulation 164:

- "1. Forfeiture of tobacco and smoking privileges;
 2. Forfeiture of conversational privileges;
 3. Forfeiture of library privileges;
 4. Forfeiture of privileges of seeing visitors;
 5. Forfeiture of letter-writing privileges;
 6. Forfeiture of remission of sentence, for a period not exceeding thirty days;
 7. Extension of Probation Period, for a period not exceeding three months;
 8. Hard bed, with blanket or blankets, according to the season, for a period not exceeding one month;
 9. No. 1 Diet for not more than nine consecutive meals in accordance with Appendix III (1);
 10. No. 2 Diet for a period of not more than twenty-one consecutive days in accordance with Appendix III (2);
 11. Confinement in an isolated cell for a period not exceeding three days."

No. 164 A:

"For the offences described in Regulation 163 (15), the Warden may, in addition to any other punishment, sentence a convict to a deduction from any remuneration allowance which has been, or may be, allowed to the said convict, or the assessed value of the damage done by the convict, or the value of any article damaged or destroyed by him."

No. 165:

"If a convict is charged with and found guilty of any offence or repeated offence for which the punishments aforementioned are deemed insufficient, or is charged with and found guilty of any offence mentioned in this Regulation, the Warden may award that the convict shall be flogged or strapped in addition to any other punishment. The offences lastly referred to are:—

1. Personal violence to a fellow convict;
2. Grossly offensive or abusive language to any officer;
3. Wilfully or wantonly breaking or otherwise destroying any Penitentiary property;
4. When undergoing punishment, wilfully making a disturbance tending to interrupt the good order and discipline of the Penitentiary;
5. Any act of gross misconduct or insubordination requiring to be suppressed by extraordinary means;
6. Escaping, or attempting or plotting to escape from the Penitentiary;
7. Gross personal violence to any officer;
8. Revolt, insurrection, or mutiny, or incitement to the same;
9. Attempts to do any of the foregoing things."

No. 171:

"After six months' imprisonment in the Penitentiary, convicts may be awarded remission of sentence, as provided by statute, dependent upon their industry and the strictness with which they observe the prison rules. The number of days to be remitted for every month, within the statutory limits, shall be as the Warden may determine."

No. 172:

"The Warden is authorized to deprive a convict of not more than thirty days of earned remission for any offence against Penitentiary rules. For the forfeiture of any longer period it shall be necessary to obtain the sanction of the Minister of Justice."

No. 173:

"Every convict who escapes, attempts to escape, breaks prison, breaks out of his cell, or makes any breach therein with intent to escape, or assaults any officer or servant of the Penitentiary, or being the holder of a licence under the Ticket of Leave Act, forfeits such licence, shall forfeit the whole of the remission which he has earned."

No. 174:

"A convict who forfeits all or any part of his remission as a punishment for an offence against prison rules, may at once again begin to earn remission or further remission, but if the forfeiture is

accompanied by another punishment of a continuing nature, he shall not again begin to earn remission or further remission until the expiration of the punishment of a continuing nature."

No. 175:

"Should a convict forfeit all his remission twice during any term of imprisonment, he shall not again begin to earn remission until, in the opinion of the Warden he shall have given definite evidence of reformation."

The English prison rules do not permit forfeiture, as punishment, in the case of conversational privileges, library privileges, privilege of receiving visitors, or the privilege of letter-writing. Smoking not being permitted, and remuneration not being paid, the English rules cannot provide forfeiture of tobacco and smoking privileges or deduction from remuneration allowance. The punishments they do provide are: forfeiture of remission of sentence, forfeiture or postponement of privileges, exclusion from associated work, cellular confinement, restricted diet, and deprivation of a mattress. When a prisoner is reported for having escaped, or attempted to escape, or for gross physical violence to a fellow prisoner, or for any other serious or repeated offence against prison discipline, the governor may report the offence directly to the Prison Commission, or to the visiting committee, which is given power to deal with such offences.

Your Commissioners do not agree with the Canadian provisions for punishment by deprivation of library privileges or the privilege of seeing visitors and writing letters, because such privileges are essential to prevent prisoners losing all contact with normal life. Your Commissioners do not believe, however, that it would be advisable, except with respect to the right of appeal, to follow the English provision that breaches of prison discipline should be referred to the official Board of Visitors or the Prison Commission.

CORPORAL PUNISHMENT FOR PRISON OFFENCES

The subject of corporal punishment is highly controversial. Corporal punishment for prison offences has been completely abolished in the United States, France, Belgium, and most of the European countries. In England, where an outstanding feature of the prison service is the absence of brutality, and a rigid enforcement of the rule prohibiting it even in cases of violent attack, corporal punishment, although retained for a special purpose, is rarely inflicted.¹ Individual retaliation is forbidden to English officers, but it is recognized that, in the interests of discipline rather than for the safety of the officers, flogging must be retained as a deterrent against violence.²

The only two offences mentioned in the English regulations for which prisoners may be condemned to corporal punishment are mutiny or

¹ See Report of the Departmental Committee on Corporal Punishment, Lond., 1938, pp. 141, 152 *et seq.*

² Benson & Glover—Corporal Punishment and Indictment.

incitement to mutiny, and gross personal violence to an officer or servant of the prison, and, even then, it may only be awarded by the visiting committee. This committee is composed of at least three members, two of which must be justices of the peace. Finally, corporal punishment thus awarded cannot be inflicted until a report, accompanied by a copy of the notes of the evidence and the grounds on which the sentence has been based, has been made by the visiting committee for transmission to the Secretary of State.

Canadian penitentiary regulations provide that corporal punishment may be inflicted for any of the prison offences mentioned in the regulations. The frequency with which it has been applied, however, has diminished in recent years.

Your Commissioners do not approve the present strap used for inflicting corporal punishment for prison offences because of the holes punched in this instrument. We have not been satisfied that these holes serve any useful purpose, but rather that they add to the severity of the strap. We recommend that in future no straps in which holes have been made should be used in Canadian penitentiaries.

Regulation 165 provides that, with the approval of the Superintendent, the warden may, whenever he shall decide that other punishments would prove ineffectual, inflict corporal punishment for any of the offences mentioned in regulations 163 and 165. In addition to the approval of the Superintendent, however, a certificate must be obtained from the medical officer before corporal punishment may be administered, and it may only be administered in the presence of the medical officer.

Having in mind that there are in the Canadian penitentiaries a large number of vicious and incorrigible criminals, your Commissioners are of the opinion that, in the interests of the maintenance of discipline, it is advisable to retain the right to administer corporal punishment, but that the English policy should be put into effect in Canada so that corporal punishment may only be inflicted, with the authorization of the Prison Commission, for mutiny, or incitement to mutiny, and gross personal violence to any officer or servant of the prison.

TRIAL FOR PRISON OFFENCES

Trials for prison offences constitute a most perplexing problem in the administration of penal institutions. They have important consequences, both for those who are in the institutions, and those who have been discharged from them.

If a normal prisoner believes that he and his fellow inmates are justly treated and only punished when guilty, he will be amenable to prison authority, and much disciplinary trouble will disappear. If, on the other hand, he feels that he is unjustly punished without a fair chance to defend himself, he will become anti-social, embittered, and uncontrollable. This state of mind is contagious, and will be aroused even when he,

himself, is not the victim of the injustice. It is a major contributing cause of breaches of discipline, conspiracies, assaults, and riots in the penitentiaries.

The second consequence of injustice in dealing with prison reports is that, instead of instilling faith in human justice into the heart of the prisoner, which is an essential part of reformation, it will create in his mind a disbelief in justice and an unbreakable creed of scepticism and contempt, which cannot be eradicated, and which the prisoner will carry with him from the penitentiary. This scepticism and contempt is not only aroused by unjust treatment in the prison court, or by false and malicious reports made by hot-tempered, cruel, or merely untrained officers, but also by favouritism, whether it is prompted by ignorance or prejudice.

Unfortunately, under present conditions, which provide no proper or effective outlet for the complaints of the inmates, or any machinery for correcting mistakes in the enforcement of discipline, this feeling of injustice is quite prevalent in our penitentiaries. This is a situation which calls for immediate correction, although it should not involve any impairment of discipline. Discipline must be sternly enforced, authority must be fully respected, and infringement of the rules must be justly punished, otherwise the situation would be rendered chaotic and dangerous, and proper management could not be maintained.

Bearing all this in mind, it is necessary to examine the actual practice at present in force in our penal institutions with regard to trials for prison offences, and to consider what remedies, if any, will tend to eradicate defects which may exist.

When an officer or guard on duty makes a written report against an inmate the case comes before the warden's court the following day at noon. The inmate is brought before the warden or deputy warden, the charge is read to him, and he is asked to plead "guilty" or "not guilty." If he pleads "guilty," he is sentenced at once, and, if he pleads "not guilty," he is remanded. In most of our institutions a remanded inmate is sent to await trial in the isolation cells, where he is deprived of tobacco, given a hard bed and no seating accommodation. He also loses marks for remission of sentence because he is not permitted to work. During his appearance at court for the reading of the complaint, the prisoner must stand at attention, and is reminded of the regulations if he fails to do so. He is halted, and sometimes punished, if he dares to offer an explanation before being asked. If a prisoner has pleaded "not guilty," he has the right to "cross-examine" the complaining officer through the warden. This is done by the prisoner stating his questions to the warden, who, in turn, providing he believes them to be in order, questions the complainant.

One of the Superintendent's brochures outlines the procedure to be observed at these trials. It is copied from the procedure in force at regular court trials, even to mentioning well-established principles of

British criminal justice, such as that a person accused is to be presumed innocent until he is found guilty, and that the benefit of the doubt must always be given to the accused. Unfortunately, however, these principles are not generally followed in the warden's courts. Some wardens undoubtedly endeavour to observe them, but find that, in practice, it is almost impossible to do so.

Your Commissioners have been present at prison court trials where these principles have not been followed. A typical case was tried before us in one of the penitentiaries. An inmate, accused of smoking while travelling in the small tramway which runs to a quarry two miles from the prison, emphatically denied having done so. When cross-examined through the warden, the complaining officer was not prepared to swear that he had actually seen the inmate with a cigarette or pipe, or even that he had seen smoke coming out of his mouth. His evidence was to the effect that he had seen smoke coming from the side, or behind the head, of the accused inmate, who was sitting in company with five others on one of the tram benches. In spite of the insufficiency of this evidence the inmate was found guilty and punished. One of your Commissioners remarked to the warden that there was at least a doubt in that case, and that certainly the inmate would not have been convicted on such evidence in a court of law. The warden replied that he believed in his officer, knew the inmate, and, from this, considered the latter to be guilty. A few minutes afterwards, at the hour for hearing requests, and after the trials were over, another inmate came forward and stated that he had come to take the punishment inflicted upon the first inmate because it was he who had been smoking and not the man convicted. The confession was coldly received by the warden, who later informed your Commissioners that he did not believe it, and, although sentence was suspended on the first inmate and punishment inflicted on the second, your Commissioners came to the conclusion that a prisoner had little chance of fair or impartial treatment in that prison court.

Undoubtedly a prisoner usually finds it advisable to plead "guilty" because of the fear that, if he does not do so and yet is found guilty, the punishment inflicted will be much more severe than if he had pleaded "guilty" in the first instance. Your Commissioners realize that little else can be expected under the system at present in force. Whatever the guard reports the warden must believe, unless the whole system of discipline within the prison is to be undermined. Even if a warden suspects, or even knows, that the guard is lying, he has no choice but to take the guard's word against that of the prisoner.

The following statement gives the total number of offences tried in wardens' courts, and the number of acquittals and suspended sentences in each penitentiary, from April 1, 1930, to December 31, 1936:

| | 1930-1 | 1931-2 | 1932-3 | 1933-4 | 1934-5 | 1935-6 | April 1 to Dec. 31, 1936 |
|----------------------------|--------|--------|--------|--------|--------|--------|-----------------------------------|
| KINGSTON | | | | | | | |
| Total Offences..... | 1,834 | 2,012 | 1,581 | 1,871 | 1,745 | 857 | 584 |
| Acquittals..... | 15 | 13 | 110 | 156 | 147 | 48 | 27 |
| Suspended Sentences..... | 15 | 4 | 8 | 49 | 8 | 4 | 9 |
| ST. VINCENT DE PAUL | | | | | | | |
| Total Offences..... | 1,961 | 2,753 | 2,267 | 1,615 | 1,967 | 1,537 | 1,195 |
| Acquittals..... | 17 | 13 | 3 | 1 | ..... | ..... | 3 |
| Suspended Sentences..... | 38 | 19 | 46 | 17 | 44 | 24 | ..... |
| DORCHESTER | | | | | | | |
| Total Offences..... | 874 | 1,032 | 1,205 | 954 | 572 | 499 | 379 |
| Acquittals..... | 17 | 28 | 40 | 20 | 1 | 1 | ..... |
| Suspended Sentences..... | 101 | 55 | 27 | 3 | 2 | 2 | ..... |
| MANITOBA | | | | | | | |
| Total Offences..... | 747 | 684 | 631 | 334 | 286 | 271 | 118 |
| Acquittals..... | ..... | ..... | 1 | ..... | 1 | 1 | ..... |
| Suspended Sentences..... | 1 | 1 | ..... | ..... | ..... | ..... | ..... |
| BRITISH COLUMBIA | | | | | | | |
| Total Offences..... | 343 | 477 | 371 | 257 | 846 | 180 | 176 |
| Acquittals..... | ..... | ..... | ..... | ..... | 4 | 1 | ..... |
| Suspended Sentences..... | 2 | 6 | 7 | 1 | 31 | ..... | 1 |
| SASKATCHEWAN | | | | | | | |
| Total Offences..... | 738 | 468 | 333 | 169 | 97 | 529 | 292 |
| Acquittals..... | ..... | ..... | ..... | 8 | 4 | 18 | 18 |
| Suspended Sentences..... | ..... | ..... | ..... | ..... | ..... | 41 | 5 |

The serious defect in the present prison court system is that the inmate has no opportunity for redress or outlet by appeal. He is entitled to submit his name for an interview with the Superintendent or one of the inspectors when they come to make a visit to the institution, but, as has been pointed out, such visits are rare, and such officers do not deal with sentences given by the prison court.

Your Commissioners suggest the following remedies as being likely to remove in part, if not altogether, the serious defects they have found in the present system: first, officers and guards should be instructed to use their own judgment and discretion in making their reports. They should not be under obligation to report immediately against an inmate for a trivial offence when, in their judgment, a warning would be sufficient; second, officers and guards who nag and goad an inmate in order to provoke insolence should be discharged; third, when the warden has received a written complaint from an officer or guard, and before

bringing the accused inmate to the prison court, he should interview the guard and question him closely. If the warden is of the right type, and if he has the necessary knowledge of human nature, which wardens should possess, he will often find that the charge is exaggerated or incorrect and, in many cases, he will find it unnecessary to bring the inmate into court; fourth, trials should not be held before the wardens alone, but rather before a tribunal of three, composed of the warden, deputy warden or chief keeper, and the physician. This would tend to ensure that the trial would be impartial and the decision just; fifth, and the most important of the recommendations of your Commissioners with respect to this problem, an appeal should lie from prison court sentences to the board of visitors, which your Commissioners recommend in chapter XXX of this report as being necessary to a proper reorganization of the penal system. This is in accordance with the practice in Great Britain, where the inmates have a right of appeal to the visiting committee or the official Board of Visitors. The results obtained by this provision are that the prisoners feel they have full access to a fair administration of justice, false and exaggerated accusations are discouraged, and unfair punishments eliminated. In England, where this right of appeal is permitted, it has been found that sentences given by the prison court are very seldom reversed. The officers, the guards, and even the governors, are held in check by the supervision of the Board of Visitors. The consensus of opinion there, including that of the governors, is overwhelmingly in favour of this right of appeal. One of the governors told your Commissioners that he regarded this right of appeal as essential to the administration of discipline, and that he felt it supported his authority rather than diminished it.

The right of appeal to such a board would also give the inmate an outlet for grievances and a vent for emotions, which is necessary in any penal institution, because it is important that the prisoner should not feel that he is absolutely removed from the protection of his fellow men in the outside world, and utterly secluded from them.

SEGREGATION

Penitentiary regulations 66 and 67 relate to the "isolation" of prisoners who, in the opinion of the warden, should be segregated from the rest of the population. The object of these rules is to isolate certain prisoners who are agitators, or of such incorrigibility that they are a disturbing element in the maintenance of discipline in the institution. Your Commissioners are of the opinion that wardens should not be permitted recourse to these provisions except in most unusual cases, and, while they realize the necessity of this type of segregation, they believe that it should only be used in strict compliance with the rules and regulations, and that great care should be taken to prevent injustice through imposition of segregation based upon insufficient evidence given by spiteful or malicious tale-bearers.

OTHER RULES AND REGULATIONS

There are 724 penitentiary regulations in Canada. In England there are only 214, and, of the latter, twenty-eight refer to the visiting committee and official Board of Visitors, which are not in existence in Canada. A more equable comparison, therefore, would be 724 to 186. The rules and regulations are repeatedly referred to throughout this report. The necessity for a complete revision is obvious. Particular revisions will also be required in order to make provision for specific recommendations, and to embody the principles and policy of the report.

Without in any way limiting the field to be covered by those chosen to carry out the revision, your Commissioners desire to direct attention to certain regulations, which have been the subject of special criticism during their investigations, and which have not been dealt with in other parts of this report.

Regulation 41.—Sanitation; Bathing, Washing, and Shaving

All penitentiary regulations should be designed to reform and rehabilitate wherever possible. An inmate who has acquired the habit of keeping clean and neat before he entered the penitentiary should not be discouraged from continuing it, and those who have not acquired the habit should be encouraged to cultivate it. To this end, bathing should be allowed at least twice a week instead of once a week, and inmates should be allowed the use of safety razors to shave themselves every morning instead of being shaved once a week. This wider latitude is permitted in many institutions visited by your Commissioners, and we do not see any objection to it. It is an encouragement to cleanliness. Where safety razors have been found in use, precautions have been taken to prevent the inmates from using the blades as weapons. This is done by having the inmates shave in their cells and surrender the blades to an officer before they come out of them. The blades are then held until the following morning, when they are reissued and recollected. Metal mirrors should be issued to the prisoners for use in shaving.

Regulation 139.—Conversations between Inmates and Officers

An inmate is forbidden by this regulation to speak to an officer, except from necessity in the course of duty, or in exchanging proper salutations when meeting or passing. Your Commissioners are opposed to any kind of familiarity between the officers and the inmates, but believe that less restriction should be placed on their conversation, because sometimes a word or two passed by an officer to an inmate may prove to have a very favourable influence in the latter's reformation, as well as in the promotion of better relations between the inmates and the officers in charge of them.

Regulations 146 to 153.—Smoking Privileges

While your Commissioners are in favour of the cancellation of the rest periods during which the inmates are allowed to smoke, they believe that some of the better class of inmates should be entitled to the privilege of smoking during recreation periods.

Regulation 155.—Flint Boxes

By this regulation, an inmate is permitted to have box, flint, and tinder, under arrangements to be made by the warden. It is stipulated, however, that this shall be permitted only without expense to the penitentiary for other than the materials actually required. Your Commissioners see no objection to permitting the inmates to have lighters at their own expense, or to permitting them to be provided by the penitentiary with a box, flint, and tinder. This regulation is another example of the illogical provisions made for the management of prisoners. If an inmate cannot get anything else but the materials provided by the penitentiary, and is allowed to have a box, flint, and tinder, but no "punk," he cannot procure the latter without violating the rules of the penitentiary. He can only do so by the use of contraband goods, which is thus, by implication, connived at by the authorities.

Regulations 158 and 443.—Forfeiture of Contraband

In the opinion of your Commissioners, these regulations should be abolished. They give rise to persecution, annoyance, and other abuses. These two regulations are to the effect that, if any money, book, or other article, not the property of the penitentiary, should be found in the possession of a prisoner at any time after his reception, they shall be forfeited to the officer who makes the discovery.

Regulations 163, 164, and 165.—Prison Offences

These regulations relate to prison offences and punishment, and are dealt with earlier in this chapter. The word "wilfully" should be inserted after the words "In any way," in the first line of paragraph 15, so that an inmate will not be punished when damage is done accidentally.

Regulation 236.—Lighting

This regulation provides that lights in the cells should be 40 watts, and in the dormitories, 60 watts. Your Commissioners are of the opinion that adequate illumination should be provided in the cells to prevent undue eye-strain. A great number of inmates have been found to be suffering from defective eyesight, which may be attributed to insufficient light in the cells. A 60 watt light attached to the ceiling or a 40 watt light close to the reading position of the inmate should be installed. A rather remarkable situation exists in the penitentiaries because, although the regulation clearly states 40 watt lights are to be used in the cells and 60 watt lights in the dormitories, circulars 9-1933 and 31-1935 state that the standard size lamp for use in the cells is to be 25 watts, and in some cases 40 watts.

Regulation 248.—Removal of Writings, etc.

As amended, this regulation does not permit a prisoner to take away with him on discharge any writings, paintings, sketches, drawings, models, or other works of art that he may have made during his imprisonment

until they have first been subjected to examination and censorship. Your Commissioners cannot discover any necessity for such a regulation. All these writings and other works have already been approved by the censor. If not approved, the inmate would not be permitted to possess them.

Canteens

Your Commissioners are not in favour of canteens or commissaries in the penitentiaries. There is no justification for pampering prisoners by allowing them to buy sweets and gum as they do in some of the large institutions in the United States. In Europe the situation is different, because there the food provided is barely sufficient to sustain the inmate, and, as he earns a fair sum of money, it is reasonable that he should be allowed to supplement his meagre rations with goods purchased from the commissary.

Fountain Pens

Your Commissioners believe that fountain pens should be allowed to those inmates who wish to provide them at their own expense.

There are a number of additional rules and regulations which concern the officers rather than the inmates. Your Commissioners will deal with these in chapter XXX.

CHAPTER VI

RIOTS AND DISTURBANCES

The records of the Penitentiary Branch show that during the last 11 years there have been twenty disturbances of a more or less serious character in Canadian penitentiaries. Of these, sixteen have taken place since the present Superintendent assumed office. During these disturbances, two prisoners have been killed, and several prisoners and officers injured. The reports show that the damage to property amounted to \$123,350.

For the purposes of this report it is considered sufficient to deal with these disturbances in summary only.

Dorchester Penitentiary

A disturbance occurred at this penitentiary on January 7, 1933, and the damage done to the cells and shops amounted to \$3,300. Five prisoners were wounded by rifle fire and two officers were slightly injured. Nineteen prisoners were prosecuted in the criminal courts and received sentences of from two to six years, in addition to the sentences they were serving at the time of the disturbance. No further punishment was given by the penitentiary authorities.

St. Vincent de Paul Penitentiary

On November 4, 1932, a fire, followed by a general riot, occurred in the tailor shop of this penitentiary. Several prisoners and guards are reported to have been injured. There were no fatalities. Eleven prisoners were prosecuted in the criminal courts. Nine of those were sentenced to terms of from two to nine years, in addition to the sentences they were serving in the penitentiary, and two were sentenced to life imprisonment. Damage amounting to \$70,900 was done by fire that occurred during the disturbance. A minor disturbance followed on November 7, and damage was done to the institution amounting to \$200, but no one was injured.

Kingston Penitentiary

On January 22, 1927, a minor disturbance occurred, as a result of which two prisoners received corporal punishment. No damage to property was reported.

On October 17, 1932, a very serious disturbance occurred. This is further and more extensively dealt with in chapter VII. Twenty-seven prisoners were tried in the criminal courts. Twenty-two were convicted, and additional sentences were imposed of from four months to two years, in addition to the terms they were serving.

On October 20, 1932, another disturbance occurred, which is also dealt with in chapter VII. No prisoners were prosecuted or punished

as a result of this disturbance. The total damage in both the above disturbances amounted to \$3,810.74, the greater part of which occurred on the latter date.

On May 3, 1934, a disturbance occurred, as a result of which twenty prisoners were summarily taken from their cells and given corporal punishment.

On May 15, 1934, a serious fire broke out in the change room, which resulted in a total damage to the buildings of \$35,284.22. Responsibility for this was not fixed, and no punishments were awarded.

March 21, 1935, a fire occurred in the west shop block, which occasioned damage amounting to \$3,494.33. This appears to have been the result of a disturbance that developed as a protest by the prisoners against the curtailment of recreation that had been permitted in the past. No charges were laid in the criminal courts. Fifty-seven prisoners were charged before the warden with breaches of penitentiary regulations, and twenty-three of these were found guilty and awarded punishment as follows:

Nineteen were given corporal punishment consisting of ten to thirty strokes of the strap. In all cases ten strokes were administered immediately and the remainder withheld pending future good behaviour. Of these, seventeen were sentenced to additional punishments consisting of loss of remission, number two diet, and loss of privileges. One prisoner was sentenced to number two diet and loss of privileges only, and one to loss of remission and privileges.

Collin's Bay Penitentiary

Minor disturbances occurred at this penitentiary in July and September, 1937. The officers referred to these as "strikes." On two occasions the prisoners refused to go to work. Minor punishments were inflicted, and the prisoners were eventually returned to work.

Manitoba Penitentiary

On April 15, 1932, a disturbance occurred at this penitentiary arising out of a violent attack by an inmate on an officer. During the disturbance, one of the prisoners, who was not participating in any violence, was killed by a bullet fired at another prisoner by a guard stationed on the wall. Two other prisoners were wounded. These two were later tried in the criminal courts and sentenced to nine months in prison, in addition to the sentences they were serving.

A report dated April 8, 1932, from the warden to the Superintendent, indicates that, by arrangement with the crown prosecutor, the charges were reduced to "aggravated assault," to which charge the prisoners' counsel was willing to plead "guilty."

The report indicates that the warden feared that, if the cases went to trial in a public court, the trial judge, one of the Supreme Court judges of the province of Manitoba, would permit evidence to be brought out which would show that, for periods of a week, ten days or thirty days,

as the case might be, inmates had been shackled to the cell gates during work hours, and that, if this were to be brought out, prominence might be given to it in the press. Your Commissioners are of the opinion that there is no good reason why charges against prisoners should be reduced in order to avoid the publicity that might be given to the details in a regular trial in the criminal courts.

What appears to have taken place in this case is that, by agreement, the prisoners in question pleaded "guilty" to aggravated assault and that, pursuant to this arrangement, they were not charged with the charge which should have been laid against them, and that consequently they did not receive the punishment they probably otherwise would have received for the murderous assault they had committed, and, finally, that this course was taken because the penitentiary officials were unwilling that publicity should be given to their methods of inflicting prison punishment; methods which have since been greatly modified.

The course followed in this case is illustrative of the secrecy that prevails, and has prevailed, in the administration of Canadian penitentiaries. It creates public distrust in the administration, where public confidence ought to exist. The public and the press well know that penitentiary authorities have a hard task to perform, and that they have many violent and undisciplined characters to deal with, and the public will support the authorities in dealing with such characters with a firm, and if necessary hard, hand. Our administration of justice is founded on the principle that secrecy in regard to methods of punishment is to be viewed with profound disapproval.

We are of the opinion that the course followed in this case was not creditable to the penitentiary officials involved.

On April 3, 1935, a small disturbance took place in this penitentiary. It was for the purpose of voicing certain complaints regarding the distribution of books, purchases of magazines, fitting of boots, and other small matters. The circumstances of this disturbance were fully reported to the Superintendent and, although the warden stated that he did not consider the disturbance to be of a vicious type, the Superintendent disagreed with him, and insisted that the matter was serious.

Unrest continued in the penitentiary until April 27, when there was a more violent disturbance. In this disturbance knives were passed out from the kitchen, and an inmate was shot and fatally wounded by a guard who fired in order to protect the life of another officer who was about to be attacked. Seven prisoners were each sentenced to fifteen strokes of the strap, twenty-one days number two diet, three months loss of privileges, and three months in segregation. One prisoner was sentenced to twenty strokes of the strap and the same additional punishments.

Following this disturbance, the warden wrote to the Superintendent stating that he would appreciate any help that might be afforded by having an inspector or other senior officer come to the penitentiary,

because he believed the situation to be complicated and unsatisfactory. When this request was received in Ottawa, the Superintendent was abroad, but, on his return, he wrote as follows:

"The local condition surrounding each Penitentiary requires consideration by itself. There would appear to be a situation existing in the Province of Manitoba which might make it of advantage to have some of these convicts tried in the Civil Courts, on charges that might be brought under the provisions of the Criminal Code.

From the reports to hand, it does not appear essential to have an officer from the Department proceed to Manitoba Penitentiary to carry out an investigation. On the other hand, to clear the atmosphere, it might be of advantage to have this step taken."

We are of the opinion that a disturbance that had involved the loss of life in the circumstances noted demanded an immediate and personal investigation by a senior officer from the Penitentiary Branch.

Saskatchewan Penitentiary

On November 23, 1936, a mild riot occurred in this penitentiary. Eight prisoners received corporal punishment. No damage was done to property and no injury was inflicted.

On May 27, 1935, the warden received confidential information that a disturbance was about to occur. When 175 men refused to go to work, the warden caused twenty-six prisoners to be segregated. Mechanical restraint was applied for short periods to nine of these. No damage to property resulted.

On July 26, 1937, two officers were assaulted by three prisoners. As a result, the three prisoners were prosecuted in the criminal courts, and one of them was sentenced to three years additional imprisonment. The other two were sentenced to two and one-half years, in addition to the sentences that they were serving. Subsequently they were tried by the warden on charges involving breaches of the penitentiary regulations, and sentenced to twelve strokes of the strap, forty-two days dissociation, number two diet, hard bed, and three months loss of remission.

British Columbia Penitentiary

On February 6, 1933, a minor disturbance occurred in which twenty-nine prisoners participated. No damage resulted, and no injuries were sustained. Six prisoners received corporal punishment.

On March 7, 1933, another minor disturbance occurred from which no damage or injurious resulted.

Between September 10 and September 13, 1934, a somewhat serious disturbance occurred. It was intended as a demonstration to draw attention to the death of two prisoners and injuries to another, sustained on September 7, when they had fallen from a scaffold. Thirty-three prisoners were punished for participating in the demonstration, and thirty-two of these received corporal punishment. The damage to property was \$236.19.

A review of the conditions disclosed in connection with these disturbances indicates that during the past five years the penitentiaries in Canada have been in a state of unrest. Prisoners have been demonstrating and rioting in order to gain privileges that have subsequently been granted to them.

It is unnecessary to state that this method of prison discipline is highly undesirable. Good prison management should have recognized injustices existing in the prisons before being driven to recognize them by riotous conduct resulting in the destruction of life and property. Amelioration of the rigours of prison life following these demonstrations indicates a weakness in the prison administration. If prisoners were entitled to the amelioration of these conditions, the administration is gravely to be censured for allowing such conditions to prevail. On the other hand, if the prisoners were not entitled to the amelioration of these conditions, they ought not to have been granted concessions because of their mutinous behaviour. Nothing is more destructive of discipline than to grant privileges that are not in the interests of the administration of justice, merely for the purpose of preserving contentment among the prisoners. On the other hand, it is equally destructive of discipline to drive prisoners to violence in order to draw attention to injustices that ought to have been promptly recognized.

CHAPTER VII

USE OF FIREARMS IN PENITENTIARIES

The International Standard Minimum Rules, drawn up in 1929 by the International Penal and Penitentiary Commission, contain the following rule:

“Officials should never use their arms nor force against a prisoner except in self-defence, or in cases of attempted escape when this cannot be prevented in any other way. The use of force should always be strictly limited to what is necessary.”

Complaints were made to your Commission in regard to the reckless use of firearms during disturbances at Kingston Penitentiary on the night of October 20, 1932. Two of these were of a very definite character, and appeared to us sufficiently serious to merit a thorough investigation and appear to us sufficiently serious to merit a thorough investigation

The Disturbances

One, Price, who was a prisoner at Kingston Penitentiary during the sittings of the Commission but who had since been released, complained that he was wounded by a bullet which entered his right shoulder above the upper tip of the lung.

Timothy Buck, a former prisoner, gave evidence at a public hearing of the Commission, held in the city of Toronto, to the effect that several rifle bullets and a volley of gun shot were discharged into his cell while he occupied it during the night in question.

To understand the circumstances surrounding these incidents it is necessary to review some of the events which led up to them. For the facts we rely on statements contained in the judgment of His Honour Judge Deroche, delivered following the trial of one, Kirkland, who was tried before him on certain criminal charges arising out of the disturbances, and on a report of the Superintendent made to the Minister of Justice on the 23rd of January, 1933.

An outbreak had taken place in the penitentiary on the afternoon of October 17. Of this outbreak his Honour Judge Deroche gives the following account:

“Strange to say, there is no contradictory evidence of any consequence. The warden at the time of the riot, and the inmates, all agree practically in their evidence as to just what happened that day. The history of the riot seems to be as follows:

The men (meaning the inmates) had for months and possibly years been asking for the removal of certain grievances which were in their minds, with little or no response. They now decided that on October 17, at three p.m., they would walk out of the shops and make a peaceful demonstration to impress upon the warden and through him upon Ottawa the demands for redress of their supposed

wrongs. I use the word 'peaceful' in the sense that there was no intention on the part of the men to do violence to either person or property, and no intention to escape.

Unfortunately for the men, the warden had heard of the suggested demonstration, and so each shop at three o'clock found its doors locked. Now that they had decided upon the demonstration they were not to be balked, and so the men in the mail-bag department, which included Kirkland, the accused in this trial, threw a hose out of the window and went down the hose, an acetylene torch was taken from the blacksmith's shop, and the locks of the doors of the shops were burned loose, and the doors opened to free the men, who then gathered in the shop dome. The warden came in and asked what they wanted. They mentioned cigarette papers and recreation and the warden was asked to telephone Ottawa for authority to meet their requests. The warden spoke to the men, telling them of the foolishness of their action, and two of the inmates, Behan and Garceau, also addressed the men, warning them that there was to be no violence to anyone or damage to property. The warden went to the telephone but instead of telephoning Ottawa he telephoned for the soldiers.

In the meantime a number of men started out to bring in some other men, when the watchman fired a shot, just landing in front of the leader. The warden instructed the watchman to continue firing. Two or three more shots were fired, causing the men to return to the dome. The warden says he feared the men were going to try to liberate one, O'Brien, who has been in solitary confinement for over a year. This the men deny.

When it was announced that the soldiers were coming, one of the men, Tim Buck, advised the men that the soldiers could not or would not hurt them so long as they did no damage to property or violence to anyone, and instructed the men to gather pails of water and barricade the door, expecting to stand siege.

The officers or guards or soldiers, or some of them, backed a heavy truck loaded with stone into the dome door, and broke it in, some of them following in, and one officer fired some shots over the heads of the men.

The men had ordered the officers up the stairs from the dome floor to the mail-bag department, being one of the shops opening off a gallery running around the dome. The men followed or went along, until practically the whole body had shifted from the dome floor to the mail-bag department. The men barricaded the door and window in the mail-bag department to prevent the soldiers entering. Admittance, however, was gained by another window, and the same officer fired several shots into the room. The men had ordered the officers and guards to the front of the room to receive the shots if any were fired into the crowd.

About this time some of the officers did not move fast enough to suit the men and were pushed, and a wooden cuspidor was thrown,

which hit an officer on the head. Likewise some sewing machines were broken by some of the men. One of the men protested to his fellow-man who was breaking a machine. The reply was 'this is the machine I work at. I have been punished often enough because of this machine, and now I am getting even with it.'

A conference was later held between the warden, some of the officers, and some of the men, and a satisfactory agreement reached for the time being. The warden was to make representations to Ottawa as to the grievances of the men, no one was to be punished for the riot until after a fair trial, and the men were to be allowed to go to work the next day. The men then filed off peacefully to their cells.

This is the extent of the riot.

The crime of which I find Kirkland guilty is punishable with seven years' imprisonment. I do not intend to give him seven years. The riot itself was not as serious as it might have been. The men were in full charge that afternoon for some length of time. The warden and staff had lost control completely. The men could have destroyed property at will, and could have done personal violence to the warden, officers and guards. They might, I think, practically all have escaped if they had desired but, generally speaking, no attempt was made to do any of these things, as such. More than that, the leaders, or perhaps, I should say the speakers, as they deny being leaders, the speakers at least restrained the men from doing any violence in injury, and so far as Kirkland is concerned, he obeyed that order, possibly gave the order himself, not by way of speech, but by way of conversation. I find no evidence that Kirkland personally attempted to injure any person or damage any property. I think the witness Earl was mistaken as to the identity of Kirkland, and with two or three hundred men milling around, as they express it, in the dome, he might easily have been mistaken. I free Kirkland entirely from the suggestion that he had anything to do with the torch, or that he injured any property or injured any person, or that he carried any weapons that afternoon. There was damage to doors, but this was done to free the men for the purpose of demonstration, and not with a desire to damage property as such. Doors were barricaded by some of the men, but this was done after shots were fired and the announcement made that the soldiers were coming. It was an act of self-defence as the men saw it, rather than with an evil purpose. The officers and guards were ordered to move to the front to receive the shots, and this also was for self-defence or protection rather than a deliberate attempt to injure anyone. Two men, Garceau and Behan, addressed the crowd, and told them to do no violence or injury to property. Buck told them that the soldiers would not hurt them if they did no violence or injury to property. Parkes, an inmate, says he told another man to desist from breaking

sewing machines. All these things have a tendency to lessen the degree of rioting, and Kirkland's part in it should count in his favour as to the length of sentence.

Then to go back to the cause of the riot. This peaceful demonstration which developed into a riot was for the purpose of emphasizing the demands of the men for redress of certain grievances which had been long and repeatedly denied them. Many of the grievances for which this demonstration was staged have already been granted to the men, proving conclusively to my mind that those demands have been reasonable. I do not think I need labour the question in detail as to inhuman treatment. I am satisfied from evidence produced that the men had some reason to believe, that Kirkland had himself some reason to believe, that there was inhuman treatment as he saw it, and a number of the rules permitting many of the things of which Kirkland and the men complained have since the riot been ameliorated by certain amendments. This convinces me also that there must have been some merit in the demands of Kirkland and the men as to inhuman treatment."

At the usual hour of release for work on the following morning, October 18, the deputy warden gave instructions that the agreement with the prisoners was to be respected. Inspector Smith interviewed one of the prisoners who had taken a leading part in the outbreak, and was informed that the prisoners had appointed delegates in every shop, and that there was no fear of the machinery being wrecked because they were satisfied that every effort would be made to have their complaints investigated. At the same time, this prisoner advised Inspector Smith not to delay action because the delegates feared that they might not be able to restrain the other prisoners indefinitely. Inspector Smith, being satisfied that nothing to affect the security of the penitentiary would occur for three or four days, authorized the prisoners to be sent back to the shops. On their return to work they cleaned up the debris and returned the tools to their proper places. Work continued through the afternoon of the 18th until the closing hour of the penitentiary and Inspector Smith recommended that the prisoners be allowed to resume work on the following day.

Between 9 and 10 o'clock on the following day, it was reported that the prisoners were becoming restless and were making insistent demands to see the Superintendent. Their delegates proposed an interview with him at 11 o'clock in the Protestant chapel. The Superintendent refused this interview because he felt that he would be placing himself in jeopardy of capture, and he informed Inspector Smith that the prisoners would be interviewed, instead, at the court hour in the keeper's hall.

The Superintendent reports that there was a serious lack of discipline in the blacksmith shop. One of the guards, without having secured authority from a superior officer, had given permission to the prisoners to go to the toilet and to smoke there.

The Superintendent evidently concluded that if the prisoners were allowed to go into the shops again without being under armed control they would destroy the machinery and set the place on fire. The prisoners were returned to their cells at 11.30, their regular hour for lunch, and the Superintendent prepared to hear their complaints. It was reported to him that they desired a meeting or conference and that they would not present themselves singly, but the Superintendent insisted on seeing prisoners singly and refused to recognize delegates. He insisted that each prisoner should present his own complaints without reference to the complaints of the others, and he informed them that if they were not willing to do this they would not be heard at all and no investigation would take place. Inspector Smith reported that three prisoners were willing to come before the Superintendent but that they would not come singly. They were informed that if they would not come singly they would not be permitted to come at all. Three prisoners were interviewed and put forward certain complaints, the details of which are unnecessary for the purposes of this report.

During the afternoon the prisoners had not been permitted to return to work, and one of them asked the Superintendent when they were to be permitted to do so. When told that this was a matter to be decided by the penitentiary authorities, the prisoner gave evidence of irritation, and stated his opinion that, under the conditions outlined by Inspector Smith, they should be permitted to return to the shops.

The Superintendent arrived at the institution at 9.30 on the morning of the 20th to conduct an inquiry into the prisoners' grievances. Both Inspector Smith and the deputy warden recommended that the prisoners should be permitted to return to the shops to work. The deputy warden pressed strongly for the prisoners to be given cigarette papers. This is a privilege which has since been given to them, but, at that time, tobacco only was permitted. The cigarette papers, which were packed with the tobacco, were removed from the packages, and the prisoners were forced to rely upon their own ingenuity to fashion their cigarettes. The Superintendent states in his report that he gave no consideration to the protest that the prisoners were being punished by being confined to their cells.

When the Superintendent was about to proceed with his examination of the prisoners, and before any of them had arrived, he received word that they were refusing to appear singly and were demanding, instead, that a delegation should be heard in the Protestant chapel. Inspector Smith and the deputy warden urged the Superintendent to accept this proposal to receive a delegation, but he refused to do so. In his report the Superintendent states:

"Finally about 3.30 three convicts presented themselves. The first two were quickly disposed of, but it was immediately evident that they were giving their complaints in a pre-arranged manner. It was explained to them that each man could only make complaints for himself without reference to others."

At this point, it became evident that the prisoners were becoming increasingly restless, and an outburst appeared imminent.

The prisoners contended that, in not allowing them out for exercise, the Superintendent had broken the agreement made with them by Inspector Smith, and they commenced a demonstration in their cells. The Superintendent moved from the keeper's hall to the office at the north gate and took charge of operations. Instructions were given to call out the militia. Troops arrived in ten or twelve minutes and took up their positions on the penitentiary grounds. Six unarmed officers, who were in the dome at the time of the final outburst, locked the dome barrier gates. In his report the Superintendent stated, "*from that time to the present there has been no danger of convicts escaping from cells or from the penitentiary.*"

The militia were armed, and the penitentiary officers were issued with rifles, revolvers, and shot guns. During the night considerable shooting took place.

On a perusal of all the evidence available to us, it is quite evident that the use of firearms was very much more general than indicated in the Superintendent's report. In the evidence taken by the Superintendent, fourteen officers admitted shooting, and one admitted firing as many as twelve shots. Officers were sent into ducts in "E" and "F" corridors and fired through the peep-holes into the cells occupied by the prisoners. In his report the Superintendent stated that the militia, being under proper control, did not fire a single shot, but in his evidence before the Commission he indicated that his investigation had not been conclusive, and that he had since been given information leading him to believe that the militia, as well as the penitentiary officers, had engaged in firing.

During the night, particularly in "F" block, there was considerable destruction of property. It is important to bear in mind that, although a large number of prisoners were prosecuted as a result of disturbances on the 17th, no prisoners were prosecuted as a result of the disturbances on the 20th when the shooting took place.

The Superintendent admitted to the Commission that during the time in question he was in charge of operations at the penitentiary, and, being in charge, he was responsible for what took place.

Price Case

We will deal with the Price case first: Price was a prisoner in cell No. 3, 2 B, P. of I. This cell was located in the cell block used as a prison of isolation, and there had been serious disturbance there during the night. Because of the over-crowded condition of the penitentiary at the time it had been necessary to confine two prisoners in one cell, separating them only by a wooden partition. During the disturbance the prisoners had broken down these wooden partitions and had thrown the broken boards and other detachable material through the cell bars into the corridor. In spite of this demonstration and destruction of

government property, the prisoners were quite secure in their cells, and there is no suggestion that in this cell block there was any danger of escape or injury to life.

The evidence taken by the Superintendent during his investigation of the disturbances has been examined by your Commissioners, and it discloses that, at some time between seven and eight o'clock in the evening of October 20, Price was shot in the right shoulder by a rifle bullet. The identity of the man who fired this shot has never been ascertained.

Immediately after the shooting, one of the prisoners called to a guard that a prisoner had been hit and was dying. While this prediction of death later proved to be inaccurate, it was the information communicated to the guard, yet none of the guards rendered any assistance to the wounded man. One of them did report the matter at the keeper's hall and, as he stated in evidence, he was told to "look after him."

During the Superintendent's examination of witnesses this matter was not taken up with the deputy warden, and he was given no opportunity either to explain or deny these statements.

The wounded prisoner remained in his cell for twenty-two hours after being hit, and during that time he received no medical attention or food. He was finally removed from his cell late in the afternoon of October 21, and X-ray, authorized on October 22, revealed that the bullet had lodged in front of the right clavicle with no serious complications. The bullet was removed on October 23 by Dr. Austin, of Kingston, and the prisoner was confined to the hospital until December 1.

Your Commissioners have perused all the evidence relevant to this matter in the testimony taken by the Superintendent during his investigation. The evidence fails to disclose any definite effort to ascertain the identity of the officer who fired the shot which wounded Price, or to fix the responsibility for permitting him to remain twenty-two hours in his cell without medical attention, or for the subsequent delay in having an X-ray taken and the bullet removed. The whole matter of the shooting that took place on this night seems to have been treated as of minor consequence. In the opinion of your Commissioners, the evidence does not disclose any justification whatever for shooting at Price or into his cell.

In his report to the Minister of Justice following his investigation, the Superintendent made the following reference to this matter:

"One convict in the Prison of Isolation was struck in the shoulder by a bullet which ricocheted from the barrier. It was ascertained that he was not seriously injured."

This reference would indicate to the Minister that the shooting was accidental. The only suggestion contained in the evidence taken by the Superintendent that the bullet ricocheted was the evidence of one guard, as follows:

"Q. Do you know how he was wounded?

A. No Sir, I do not, but I think it was probably a ricochet from the steel."

The Commission cannot discover any evidence on which to base a finding that the bullet ricocheted. The circumstances indicate that the prisoner was wounded as a result of a reckless misuse of firearms by someone whose identity has not been ascertained. In the opinion of your Commissioners, the investigation conducted by the Superintendent was entirely inadequate.

This brings us to the treatment of the prisoner after he had been wounded:

As has been stated, the Superintendent was in charge of operations at the prison on the night of the firing. The wounding of the prisoner had been promptly reported at the keeper's hall, and the Superintendent was in communication with those in charge there. He stated to us, however, that he could not recollect having learned of the wounding of this prisoner until the next day. One of the guards who gave evidence before the Superintendent stated with regard to the wounded man that, had it not been for orders received, "I would have had him out in a minute." He placed the responsibility for the orders that prevented him going to the assistance of Price on the deputy warden. However, as has been stated, during the Superintendent's investigation, the deputy warden was not questioned about this matter and, in fact, the transcript of the investigation does not disclose that the Superintendent then regarded the matter as one of any consequence.

The Commission find that the treatment accorded to this prisoner after he was wounded was brutal and inhuman. In addition to being allowed to remain in his cell for twenty-two hours without medical attention, he was given no surgical treatment until the third day after the shooting. In our opinion, the circumstances called for the most searching and careful investigation in order to fix responsibility, both for the shooting and the subsequent neglect, as well as for strict disciplinary action when the responsibility had been fixed. The Superintendent failed to do this and, instead, issued a report to the Minister, which eventually was made public, indicating that the wounding was of a trifling and accidental nature.

Buck Case

We now deal with the Buck case: Buck was a participant in the demonstration that took place on the 17th of October. Mention should be made of the part he took in this demonstration in order that all the circumstances surrounding the shooting into his cell on the night of October 20 may be fully appreciated.

Buck was tried for his participation in the disturbance of October 17 before His Honour Judge Deroche, who delivered judgment on the 6th of July, 1933, in part as follows:

"Then I think I had better say this before I start my judgment proper. You presented to me a most unusual request in your argument this morning. Your request in so many words said 'I hope Your Honour can find me not guilty, but if you feel you must find

me guilty, then there is something I prize even more than the question of guilt, and that is that my name may be cleared of having done or said some things which I deny, and which would stamp me in my own opinion as a blackguard.' I am very glad to say to you that I can clear you of these things. I do not believe you shut off the motor in your shop; I do not believe you spoke in the mail bag department stating that you would kill the screws unless you got what you wanted. I do not think you made a speech in the dome, or influenced any men to fight in the stone shed on that day; that was a personal fight between two men, I am satisfied, a personal grudge. I do not believe you ordered the men from the stone shed to go in the mail bag department. *There is no evidence that you were an instigator of the assembly which developed into this riot.* I think this covers all the things that were worrying you, and therefore, I have been able to do what you asked me to do. Having said this, may I proceed with my formal judgment.

The evidence in this case has not changed my opinion, but rather confirmed it, as to the history of the events of the afternoon of the 17th of October, as expressed by me in the Kirkland trial. My opinion in this regard is, I think, well-known, so I need not repeat it here. I think these things constituted a riot; more than three men were engaged in it; there was a common purpose in the minds of the men; the tranquillity of the neighbourhood was disturbed for various reasons; the assembly, although peacefully intended in its inception, soon became tumultuous; there was a promiscuous, noisy commotion which was aggravated by some men carrying hammers, iron bars and sticks; machines were broken, and locks were burned off doors. The Warden himself was prevented from leaving, even when he desired to do so. Officers and guards were ordered to the mail bag department, and ordered to the front when shots were fired, and they felt they had to obey and did obey. Different witnesses have testified to being alarmed, to being in real fear, and these events constituted a riot.

I think I should say here, however, that the riot was not nearly so serious a matter as it was thought to have been at the time it occurred. From newspaper reports at that time, and general conversation amongst the public, it was deemed to have been an exceedingly serious matter, but I think the evidence as developed in these cases thus far has shown something different. Certainly it has convinced me that the riot was not intended to be a riot at the outset. *I believe you, Buck, and the other witnesses, that the intention was a peaceful assembly, unlawful perhaps, at least breaking prison rules to do it, and the men knew they were breaking prison rules; nevertheless, I am satisfied that in the minds of the leaders anyway there was no desire that there should be a riot."*

His Honour then went on to find that there was, nevertheless, a breach of the law, that Buck had participated in it, and that therefore he was

guilty as charged. In dwelling with the subject of sentence, His Honour stated as follows:

"While I do not intend to sentence you, Buck, to-day, I think at this juncture I might give some reasons which will move me in sentencing you when that day comes. While I am satisfied that you formed part of this riot I am also satisfied that you had an honest desire that no one should be injured and no property damaged; that is damage itself for the sake of damaging property. I am satisfied it was your desire to have the assembly of men make a demonstration merely for the purpose of emphasizing your demands for redress of grievances, and that is all to your credit. From the evidence produced in the Kirkland case I know of many of those grievances, and I know that since the riot they have been largely remedied, which makes your demands look reasonable; and that helps me somewhat in reaching a conclusion as to what sentence I shall impose.

While you did not personally injure any property I feel bound to hold you responsible in law, and, as I have said therefore, you are found guilty of an offence punishable with seven years, but I do not intend to give you seven years. The officer in charge of your shop says that you are the best machinist they have ever had in that shop; that your work and conduct have been commendable, and this is also very much to your credit. Then you exercised some restraint over the men, you and two or three others at certain points in this riot, and that is very much to their credit and yours."

And in another place His Honour stated:

"First, the riot itself was not of a very serious type. I would like the public to get that, because I am satisfied the public had the wrong idea of this riot at the time it occurred. The intention of the men at the outset was only to break a prison rule for the sake of assembling to make a protest, but it developed into a real riot, although not of an intensely serious nature. There have been many riots in many prisons of a much more serious nature than this one. As riots go, I would say this was a very mild riot, but it was a riot, and I had to find you guilty of participating in it.

Then, secondly, I do not believe you instigated the riot, and that, I think, is one of the things you wanted me to find. I believe that you had an honest desire that no harm should come to either person or property. But, as I said before, being a part of the unlawful assembly which developed into a riot, you are responsible for the consequences of the riot, and I must sentence you to some term of imprisonment.

In so far as Buck is concerned, the above findings of fact by the trial judge judicially dispose of the evidence leading up to the night of October 20.

At the time of the disturbance, Buck was a prisoner in cell No. 16, on range "4D." This cell is located on the fourth tier, and the floor of it

is approximately thirty feet from the ground. It is not in the vicinity of cell block "E" in which Price was located.

When Buck was examined after the disturbance, he stated that, while he was in his cell, several rifle bullets and at least one round of gun shot were fired into it some time between 6 p.m. and 8 p.m. on the evening of October 20. When giving evidence before the Commission, the Superintendent stated that Buck was under examination before him for about six hours continuously, that he had appeared on the 18th of October and again subsequent to the shooting, and that Buck did make a statement to him regarding this shooting.

A subsequent investigation, which will be referred to hereafter in greater detail, was conducted in the month of August, 1933 by Inspectors Craig and Dawson. At this investigation Buck submitted to the inspectors a written statement of the facts regarding the shooting into his cell. This statement of fact was accepted by the Superintendent when giving evidence before us, and it does not appear to be seriously disputed in any detail. In regard to this statement, the Superintendent's evidence is as follows:

"I am ready to accept Buck's statement, and I am discounting all other evidence. I am prepared to accept what Buck said in his written statement."

Inspector Dawson, in giving evidence before the Commission, stated:

"I believe Buck in practically every respect, what he said.

Q. Do you mean you believe it now or you believed it when you signed this report?

A. I believed his evidence.

Q. Will you look at paragraphs 9, 10, and 11 of the report?

A. Do not tie my statement down meticulously. I believed him generally."

In addition to the above evidence, which no doubt is based on the various official investigations into the occurrence, the evidence before this Commission confirms Buck's statement of the circumstances, and the Commission is therefore prepared to accept it as a truthful account of what took place. The statement is as follows:

"On the above mentioned date (October 20, 1932) I was confined in cell No. 16 on Range 4 D Block, of the main dome, Kingston Penitentiary. Block D is on the west side of the wing, running south from the dome; the cells, therefore, facing west. The library is at the south end of this wing and the last cell is No. 18. My cell was therefore the third from the end.

During the afternoon of the 20th, resentment developed in the institution over breach of a promise of daily exercise, and there was considerable noise. The noise emanated mainly from parts of the institution other than D Block, although during the early part of the afternoon some shouting had started there also. About 3 o'clock

in the afternoon the shouting was reinforced by rattling of cups and dishes. None of this was in D Block. Sometime after (probably about four or four-thirty), reports were heard, followed by a smell of gas. A rumour flew around that the place was on fire, the north wing being named as the centre. For a short time there was again some shouting on D block, but it quietened down quickly; and except for calling backward and forward for information, there was no more disturbance on that block. The noise in other parts of the building, however, became a terrific din.

A short time after smelling gas, I heard shooting. For some time it seemed to be confined to the north side of the building, but later, other men on the block said they could see guards firing into E block. At about this time men on C block (east side of south wing) shouted over that guards were firing into the prison of isolation. By this time shooting could be heard intermittently on all sides. The noise in the building was still considerable, large numbers of men throwing trays and other movable (and removable) articles out of their cells to the floor.

None of this occurred on D block. No cell furnishings were damaged, no furniture or utensils broken, and no trays or rule boards were thrown from the cells of this block.

Some time after dark the shooting into E block was resumed. A large number of shots were fired, and suddenly an inmate shouted from the north end of the block that they (the guards) were coming over to D. One man yelled, 'duck boys, they're going to shoot in here.' I have no means of judging the time, except that it had been dark for some time. We had no supper that evening. It is therefore impossible to establish the time by its relation to supper hour. I estimate, however, that it was about 8 o'clock in the evening.

I was making up my bed. I heard the shouts and heard somebody yell 'they won't shoot in here, we're not trying to escape' and almost simultaneously I felt a sharp rush of air in my hair and the zip of a bullet. I looked out the window, saw a group of men dressed in penitentiary oilskins (it was raining slightly), standing on the lawn, and the gleam of light on rifle barrels. I ducked for cover immediately behind the wall beside the gate of my cell. No more shots were fired at the moment and the shouts of 'don't shoot in here we're not trying to escape' were superseded by shouts that they were only firing blanks.

Fearing that somebody would expose himself unnecessarily I put my face to the gate of my cell and yelled 'blanks nothing. You should see the inside of my cell.' Almost before the words were out of my mouth, a bullet whizzed by my head, seemingly just below my left ear. I withdrew my head and went back on the bed to extinguish the light. As I did so other shots were fired. One of them struck a bar on the window with a resounding 'whang,' another hit the wall between the doorway of my cell and the doorway of

cell No. 17. A third which was apparently a charge of small shot spattered the wall at the back of my cell.

No other shots were fired into D block during that evening. I took the first opportunity of drawing the attention of officers to the marks and to the fact that nothing was disturbed in my cell. A day or so later an officer entered the cell, examined the marks, and apparently filled out a report sheet concerning same.

(Signed) TIMOTHY BUCK, No. 2524."

When giving evidence before the Commission, Buck stated that he had reported the matter to the first officer who had come to his cell the following day, and that he had demanded that it be reported to the Superintendent. He stated that he had said, "a deliberate attempt was made to murder me," and that the officer had replied, "All right Buck, I will report it." A few hours later, an officer came to his cell with a pencil, paper, and ruler, and counted the number of holes, measured the distance between them, and asked Buck if he had any statement to make. Buck said that he replied, "Yes, I have plenty of statements to make, but I would be foolish to make it to you. I want to make it to some competent body." He says he heard nothing more until he was called upon to give evidence on general matters before the Superintendent. Buck states that, at the conclusion of the general questioning, the following conversation took place:

"But, General Ormond, there is another matter about the shooting and he said 'Oh yes, I understand a bullet came in your cell.' 'No' I said, 'none of them have legs. They were fired into my cell, and there was not one bullet,' and he said, 'perhaps you would care to make a statement on that.' I said, 'No, I would prefer to make my statement to a competent body,' and he said, 'All right, we will deal with that later.'"

Buck's evidence is that he heard no more of the matter until he repeated his statement in open court before Judge Madden during the trial of Michael McDonald, one of the prisoners who was tried in the courts on a criminal charge arising out of the disturbances of October 17. Until this time the matter does not appear to have attracted serious consideration.

The following important details are amply corroborated by the evidence and are not seriously disputed: No disturbance took place in "D" block, nothing was damaged in the cells, and no trays or rule boards were thrown from them. Buck was neither leading a demonstration nor inciting anyone to violence. There is evidence, which will be referred to hereafter, that his actions were to the opposite effect, and that, as on other occasions, he counselled the inmates against violence. Evidence was given before the Superintendent that Buck's only participation was to call out, when he heard the shooting into the other blocks, that no one was trying to escape and that all they desired was public investigation.

Notwithstanding these circumstances, in spite of Buck's complaint to the Superintendent, and although the matter was one of serious import

in a branch of the administration of justice, the files disclose that no real attempt was made to investigate the facts. Indeed, until Buck made his statement in open court, no reference was made to the firing of shots into his cell.

Following the publication of Buck's evidence in the newspapers, J. W. Buckley, Secretary of the Toronto District Labour Council, wrote to the Minister of Justice on August 5, 1933, as follows:

" August 5, 1933.

MINISTER OF JUSTICE,
Parliament Buildings,
Ottawa, Ont.

DEAR SIR,—The Toronto Trades Council, at its last meeting discussed the statement, made in the courts of the trials at the Kingston Penitentiary by Mr. Tim Buck, that without provocation he had been shot at by a guard or guards, in his cell, and unable to defend himself.

I have on file your letter of the 17th of June in reply to a protest from this Trades Council as of the 3rd of June, and in section 5 of your reply you state that the political prisoners have not been subjected to any brutal treatment. While we do not question your good faith, in making this statement, nevertheless as Tim Buck was a member of our movement in the past and a delegate to our Council for a number of years, previous to the expulsion of his party from our Trades Council, we have every reason to know him personally, and know that he would not make statements of that character without there was some justification, as physically he is inoffensive, and a gentleman in all his social intercourse.

Therefore, we would request that before the trial is finally disposed of, that your Department will hold a public investigation, as to the accuracy of that statement, and to place the responsibility on the guilty official, as I cannot assume that the head of any department of government can justify its paid officers who assume the right to use their office to settle a personal grudge. Awaiting your reply,

I remain,

Yours very truly,

J. W. BUCKLEY, *Secretary,*
Toronto District Labour Council."

On receipt of this letter, the Minister addressed a communication to the Superintendent, dated the 8th of August, 1933, as follows:

" August 8, 1933.

THE SUPERINTENDENT OF PENITENTIARIES,
Ottawa, Ont.

DEAR GENERAL ORMOND,—I enclose a letter from J. W. Buckley of the Toronto District Labour Council in regard to the allegation

of Tim Buck that the guards in the Penitentiary attempted to shoot him. Please let me have a statement of facts in connection with this charge and oblige."

A. H. Downs, Jr., Secretary of the Toronto Regional Labor Council of the Co-Operative Commonwealth Federation, wrote to the Minister of Justice on August 15, 1933, as follows:

"DEAR SIR,—It has been brought to the attention of this Council, which is the Central Council of more than thirty Workers' Organizations in the City of Toronto, through a press item in the *Mail and Empire* of this city that five shots were fired into the cell of convict Tim Buck, in Kingston Penitentiary on October 20, 1932, by some person or persons as yet unknown.

The information was elicited from Buck while he was under oath during the trial of convict M. McDonald in connection with the recent riots in Kingston Penitentiary, and would therefore be reliable.

This Council deplores the fact that a thing of this nature could happen to anyone, and especially a helpless convict while incarcerated in a prison cell, without a thorough investigation of the alleged incident.

Further, it is the demand of this Council, and we consider it a reasonable demand, that the charges of convict Buck in this regard be thoroughly investigated and if substantiated the responsible parties be brought before the Courts and dealt with in the proper manner. We use the word parties in this case as we do not believe that an individual would take it upon himself to attempt such a heinous crime.

All of which is submitted for your careful consideration.

Yours very truly,

A. H. DOWNS, Jr.,
Secretary."

On the 16th of August, 1933, the Superintendent wrote to Inspector W. H. Craig, who was apparently at Kingston Penitentiary at that time, as follows:

"August 16, 1933.

Inspector W. H. CRAIG,
c/o The Warden,
The Penitentiary,
Kingston, Ontario.

Re 2524, Buck—Kingston Penitentiary

1. The above-named convict is reported to have made a statement, while giving evidence, that during the disturbance following the riot in Kingston Penitentiary in October, 1932, some Guard or Guards on the staff of the Penitentiary deliberately shot at him while he was in his cell.

2. Please proceed to investigate this matter at once.

3. *This convict made a similar statement to me in October or November, 1932, but there was no substantial evidence to bear out his statement.* It is possible that he may produce witnesses, either convict or guard, that will prove or disprove his allegation.

4. Inspector Dawson should sit on the investigation with you. If a stenographer can be made available, the evidence should be taken down verbatim. If not, a synopsis of the evidence should be taken down by you in longhand.

5. Please treat this matter as urgent.

D. M. ORMOND,
Superintendent."

It is quite obvious from a statement of the facts that Buck was in a most perilous position. In giving evidence before us, the Superintendent appeared to take a more serious view of the matter than he had previously taken. He stated as follows:

"Q. Do you think a guard is justified in firing a shotgun into a cell where there is a convict and where the convict is not trying to escape and is not breaking anything? Do you think a guard is justified in doing that?

A. I think it is a most *damnable and wrong* and improper thing."

On receipt of the above instructions, Inspectors Craig and Dawson conducted an investigation, in which they examined seven prisoners and nine guards. The examination of these witnesses was neither comprehensive nor thorough. The manner in which the questions were put and the carelessness exhibited in failing to follow them up have convinced your Commissioners that, either these officers were trying to avoid making a thorough investigation, or they were utterly incompetent to conduct it.

The report made as a result of this investigation was as follows:

"1. Close examination of the interior of cell 16-4-D, which is located on the fourth and top tier of D block, was made by the undersigned and it was found that there had been a bullet imbedded in the wall about six feet in height from the floor and two feet down from the ceiling, and approximately midway between the side walls, this mark (No. 1) was in the form of a round hole as deep as the forefinger. No. 2 bullet mark was in approximately the centre of the ceiling, a few inches to one side—this bullet had evidently ricocheted and had imbedded itself in the back wall, a little to one side of centre. No. 3, apparently, was the discharge of shot gun as ten marks as if made with shot; splattered on the back wall were found around but mostly above No. 1 and No. 2 marks. No. 4 bullet mark was found on the iron bar of the window directly in front of cell 16-4-D. These four bullet and shot marks were the only marks that could be found that would indicate firing on that part of the prison known as D block.

2. Convict No. 2524, Timothy Buck, was confined in cell 16-4-D on October 20, 1932.

3. The marks above mentioned prove conclusively that shots were fired into D block, three of them landing in Buck's cell, and one directly in front of the bar of the window.

4. The evidence indicates that all these shots were fired between the hours of five p.m. and eight p.m. Buck states that the firing started at eight o'clock, other convicts state at an earlier time, but it is considered that the earlier hour is mentioned in an endeavour to show that it was light enough for them to recognize who did the shooting.

5. None of the evidence taken gives information as to who actually did the shooting. One convict mentioned three officers' names but one of them was home sick on that day and the other two deny that they shot into D block, although at the time, they state they were in that vicinity.

6. At about five o'clock that evening, it was ascertained that convicts in F block were digging through the partitions of their cells in an endeavour to congregate in the Chapel and to effect an escape.

7. The cells of F block were examined by the undersigned and it was found that holes had been dug in several cells, large enough for a man to crawl through.

8. To prevent further digging and an escape, numerous shots were fired into the air and into the ceiling of F block; great noise and damage was going on in E block and a number of shots were fired similar to those into F block. These shots had the desired effect.

9. Buck admits, and other evidence shows, that he made numerous speeches to the convicts that afternoon and evening. The nature of the speeches early in the afternoon may have been to quiet them but it is evident, towards evening especially when the firing commenced into the other blocks, that he succeeded in working the convicts up by having them shout in unison to the troops to coerce them and also in chorus voicing their demands.

10. This shouting by Buck was undoubtedly done at the gate of his cell in a gesticulatory manner and would be seen by the officers and militia patrolling and on duty in the yard. His actions and shouts would indicate clearly that he was leading and inciting the convicts.

11. It is considered that the opinion was then formed by those on duty in the yard that action had to be taken to suppress Buck and the tumult he was the instigator of.

12. The same action as taken with E and F blocks, was then evidently taken in regard to D block, by firing four or five shots high up in D block. These shots were fired at a moderately sharp angle from the yard but instead of hitting the ceiling as in the other blocks,

entered Cell 16 on the fourth or top tier of D block. The evidence shows these shots had the desired effect.

13. Whether aim was taken at Buck's cell, the evidence does not show, but it is apparent that from the high location of the marks those who fired the shots endeavoured to scare the convicts only, which evidently they did and the agitation was suppressed.

14. It is the opinion of the undersigned that the shots fired into D block were not aimed deliberately at Buck or any other convict and that D block was treated similar to the other two blocks into which firing occurred.

15. The shots were evidently fired in the direction of the agitator's (Buck's) cell which was on the top tier next the roof. This indicates that they were fired at a sharp angle possibly in an endeavour to hit the ceiling.

16. It is pointed out that in the opinion of the undersigned, firing was the only reasonable means possible to suppress what was taking place at this stage. It was impossible at this time to take Buck out of his cell without precipitating a worse riot and possibly the loss of lives.

17. It is the opinion of the undersigned that the firing into D block on the evening of October 20, 1932, was done by a member or members of the staff of the Penitentiary or of the permanent militia, both of which were on duty in the vicinity from which the shots evidently came at that time.

18. The undersigned are further of the opinion that the man or men when firing the shots into D block considered that they were fully justified in taking that action in the circumstances that then existed.

Respectfully submitted,

W. H. CRAIG,
Inspector.

J. D. Dawson,
Inspector."

The findings in the above report are subject to the following comments:

The references, in paragraphs 6, 7, and 8, to the nature of the disturbance in "F" and "E" blocks are irrelevant to the matter under investigation. Buck was in no way connected with any disturbances that may have taken place in these other cell blocks.

The finding in paragraph 9, that, "toward evening, especially when the firing into the other blocks commenced, he succeeded in working the convicts up, by having them shout in unison to the troops to coerce them, and also in chorus voicing their demands," is absurd. The troops were located outside the walls of the cell block.

The prisoners were all locked in their cells. It is difficult to conceive how any shouting by Buck could have had the effect of "coercing" the armed troops in the yard. Careful perusal of the evidence does not justify such a conclusion.

The inferences drawn in paragraph 10 are unsupported by the evidence. The inspectors undertake to surmise what Buck would have done and what the officers might have seen and, on this basis, they make the statement: "His actions and shouts would indicate clearly that he was leading and inciting the convicts." There is no evidence of such actions or shouts, and Inspector Dawson, when examined before the Commission, expressed quite a different view from the above. He stated:

"I asked him (Buck) if his action might be interpreted as inciting rather than trying to quieten them, and he said 'Yes.' That more or less satisfied me on that point. This may be poor language."

The evidence Buck gave was as follows:

"Q. Is it possible that anyone in the distance would have thought that you were inciting rather than remonstrating?"

A. Yes, it is possible owing to the noise and general excitement."

Later, in giving evidence before the Commission, Inspector Dawson expressed the opinion that Buck was not inciting the inmates, and, upon being questioned on the subject, answered as follows:

"Q. Don't you think in full justice, you should have stated that he was not inciting?"

A. I don't think the language was strong enough in view of the interpretation I gave it."

The finding contained in paragraph 11 is unsupported by evidence and merely a matter of conjecture on the part of the inspectors. There is no evidence by any officer to the effect that it was concluded that "action had to be taken to suppress Buck."

The conclusion in paragraph 13, that "it is apparent that from the high location of the marks those who fired the shots endeavoured to scare the convicts only, which evidently they did, and the agitation was suppressed," is another conjecture unsupported by the evidence. Your Commission made an examination of the marks on the cell wall and, from this examination, concluded that the firing of shots into the rear wall, instead of into the ceiling of the cell or outside the cell, could not be taken as an indication of the exercise of care to avoid hitting the inmate.

We entirely disagree with the opinion expressed in paragraph 14, "that the shots fired into 'D' block were not aimed deliberately at Buck or any other convict." There is nothing to justify a finding of this character. On the evidence, the contrary view, that they were fired deliberately at Buck, is a much more reasonable conclusion.

Inspector Dawson stated in evidence before the Commission that, in his opinion, shots were fired into Buck's cell, and he is now unable to explain how the conclusion to which he previously subscribed, that the round of gun shot was not deliberately aimed at Buck, could be substantiated.

The finding in paragraph 15, that "the shots were evidently fired in the direction of the agitator's (Buck's) cell which was on the top tier next the roof . . . indicates that they were fired at a sharp angle possibly in an endeavour to hit the ceiling," is another finding unsupported by the facts.

The findings in paragraphs 16 and 18, "that firing was the only reasonable means possible to suppress what was taking place at this stage," and "that the man, or men, when firing the shots into 'D' block, considered that they were fully justified in taking that action," is entirely without the foundation of evidence. Inspector Craig and the Superintendent appeared to realize this when they were giving evidence before your Commission:

The Superintendent testified as follows:

"Q. It would be just as fair a deduction that he was going to deliberately kill Buck as the deduction they draw?

A. Right."

Inspector Craig, on his examination, stated as follows:

"Q. All the men who were issued with guns would be known?

A. They should be.

Q. Wouldn't you consider it a very serious matter to discharge into the convict's cell when they knew that the convict was in it?

A. I consider it was very serious to shoot into a convict's cell.

Q. And the charge of ten pellets of shot went through the door and you came to the conclusion in para. 18 that the man was justified who made that shot?

Q. I said 'They considered they were justified.'

Q. Why?

A. Because it was a very dangerous thing to do and no sane man would do that unless he considered that he was justified.

Q. You were trying to consider if they were justified?

Q. You admit that it is very dangerous?

A. Yes, and especially a shot gun.

Q. And you say that they considered they were 'justified.' On what evidence do you make that assertion? They did not testify that they were justified?

A. No.

Q. On what ground then?

A. If a man does a thing, he must have considered himself that he was justified.

Q. Why was the shooting confined to that particular cell?

A. That is what I could not express an opinion on, whether it is a coincidence—it is a pretty big coincidence that it all happened to go into his cell.

Q. You do not believe that it is a coincidence.

A. No, I do not.

* * * *

Q. . . . There was no damage done to anything in the cells, apparently, and you did not find anything like that?

A. No, I don't defend the shooting.

* * * *

Q. He shot into the cell when the man was in there. Do you consider that he was justified in doing it?

A. I say absolutely 'No,' if that is what he had in mind. I will qualify that by saying if the uproar was such in the opinion of the officer or officers that shooting was required into the ceiling. I would say it was not justified.

Q. Would you say that he was justified in using a shot gun?

A. I would say it was bad judgment—an error in judgment.

Q. Was he justified in using a shot gun?

A. For the purpose I would say a shot gun was not suitable.

* * * *

Q. We have the spread of these things and I would like to get the number of feet from the cell to the lawn. It looked to be 150 feet anyway, and at twenty yards the spread is twenty-four inches, and at forty yards forty-four inches, and it seems to me that there must have been two shots by the shot gun. The 150-foot spread is forty-eight inches. Those are the ballistic conditions.

A. It apparently was shot at an acute angle in order to enable that many shots to get into the cell. If it was further out it would have spread into the other cells.

Q. There must have been a deliberate attempt to get as many bullets in the cells as possible?

A. Yes.

* * * *

Q. Under the conditions obtained at D block was there any justification whatever for either the rifle or shot gun shooting into D block?

A. To my mind, no.

Q. That is the weakness of your report. In para. 18, you attempt there to excuse the men and to establish certain justification for what they did and on the following day you added to it by supplementing it with some other statements made before Superintendent Ormond to indicate what was in the mind of the men.

A. I think the man who would shoot under those conditions was insane or contemplated murder.

Q. Or had orders from his officers?

A. Yes.

* * * *

Q. Do you think if a shot gun was in that position, that shots could be carefully aimed into the wall and directed to miss him?

A. I do not think so."

The extent to which the inspectors were willing to rely upon mere opinions and conjectures in arriving at the conclusions set out in their report is indicated by the following evidence, given before the Commission by Inspector Craig:

"Q. Why do you say in para. 10 that the shouting by Buck was undoubtedly done at the gate of his cell in a gesticulatory manner and would be seen by the officers of the militia patrolling and on duty in the yard. His actions and shouts would indicate clearly that he was leading and inciting the convicts? Where is the evidence to show that?

A. I had seen him and sized him up as a man who made speeches which would be considered rather a rousing speech and considered that he would be a leader and from his own statements.

Q. Just by sizing him up?

A. Apparently."

Upon receipt of this report from the inspectors, the Superintendent prepared a memorandum for the Minister of Justice, in which he stated:

"I concur in the report, but make somewhat different deductions from the evidence of convict Buck and others from those contained in paras. 14 and 15, of the report.

- (a) I am of the opinion that Buck was the principal spokesman and agitator in D block;
- (d) That the officers not only did not shoot at Buck, but deliberately aimed the shots to miss him, but to warn him that he must desist from his actions of making speeches and inciting the other convicts;
- (c) I am of the opinion that the shots were carefully aimed and well-directed;
- (d) I am of the opinion that the first shot was fired from a rifle by a Penitentiary Guard, when Buck was standing at the cell gate, and was fired over his head, as being the safest place to direct it, but close enough to show him that he could be hit should it be considered necessary to do so, and he did not desist from his offensive action;
- (e) I am of the opinion that the second shot fired near Buck, when he was at the cell gate, was from a revolver, the shot being carefully aimed at, and hitting in the ceiling of the

cell. This shot apparently showed Buck that he could be hit if it was the desire of the officers to do so. He desisted from his offensive action;

- (f) I am of the opinion that the other shots fired into Buck's cell were so directed because of the continuance of shouting by the convicts in the adjacent cells.

(3) If considered desirable, the Toronto Regional Labour Council might be informed that no shot was deliberately fired at Buck, but that shots were fired in proximity to him that he must desist from his speech-making and inciting of the other convicts.

(4) Buck was known as a ring-leader from the part he played on October 17th, for which he has since been tried and convicted.

(5) That attached report confirms the Report of the Superintendent, dated January 23, 1933, at page 26, which contains the statement:—

No convict was singled out, or fired at, by any officer.

Respectfully submitted,

D. M. ORMOND,
Superintendent."

This report that was made to the Minister of Justice is, to a great extent, composed of conjectures presented as conclusions of fact. It appears to your Commissioners to be the result of an effort on the part of the Superintendent to place the incident in an even more favourable light than the inspectors had been willing to place it. Notwithstanding his concurrence in the report of the inspectors, however, and, in spite of the fact that he had added his own comments thereto, as noted above, when giving evidence before your Commissioners the Superintendent emphatically stated:

"I contend there was no reason for firing a single shot during that affair."

It is very difficult to reconcile this evidence with the views expressed in his memorandum to the Minister.

The Superintendent stated in his memorandum to the Minister of Justice on August 28:

"(b) That the officers not only did not shoot at Buck, but deliberately aimed the shots to miss him, but to warn him that he must desist from his action of making speeches and inciting the other convicts;

(c) I am of the opinion that the shots were carefully aimed and well-directed;"

This statement has not in any way been supported before your Commissioners. It is difficult to understand how it could be possible to aim a round of gun shot, such as was fired into this cell from a

distance of at least 150 feet, in such a manner that it could be stated it was not shot deliberately to hit Buck, or that it was "carefully aimed and well-directed."

The statement, that "Buck was known as a ring-leader from the part he played on October 17, for which he has since been tried and convicted," is unfair in view of the previously quoted findings of the trial judge. At the time the Superintendent made this statement, a definite judicial finding had been made to the effect that there was "no evidence that Buck was an instigator of the assembly which developed into the riot." The trial judge, in addressing Buck, had stated: "I do not believe that you instigated the riot, and that, I think, is one of the things you wanted me to find. I believe that you had an honest desire that no harm should come to either person or property." With these findings on record, it would not appear that the Superintendent was putting an unbiased view before the Minister.

After a careful examination of all the evidence, your Commissioners have reached the following conclusions:

- (1) At least three rifle bullets and ten pellets of buck shot were fired into Buck's cell by someone who knew that Buck was in the cell at the time.
- (2) The shots were deliberately aimed at Buck's cell.
- (3) The shots were fired, either with the deliberate intention of injuring Buck, or wilfully, reckless as to whether they did or not.
- (4) When the Superintendent had become acquainted with these circumstances he ought to have instigated an immediate and thorough investigation to determine the names of the men who had fired the shots, and this investigation should have been pursued with as much diligence as the investigation of any other crime.
- (5) When Mr. Buckley's complaint was received, in August, 1933, the inspectors were instructed to conduct an investigation because there was no record of any appropriate investigation having taken place.
- (6) The investigation by Inspectors Craig and Dawson was not carried out with the efficiency the circumstances warranted.
- (7) In view of the evidence before them, Inspectors Craig and Dawson did not prepare an honest report for the Minister, but rather sought to place the responsibility where it did not justly lie, on Buck, and this with a view to justifying the shooting, which they knew at the time to be unjustified.
- (8) The memorandum prepared by the Superintendent for the Minister of Justice was prepared in an unwarranted effort to justify what had taken place, and the Superintendent wrongfully omitted therein to report to the Minister all the facts that were within his knowledge, or to give the Minister an honest opinion in regard thereto.

St. Vincent de Paul Case

Our attention has been directed to another instance of the careless use of firearms, which occurred at St. Vincent de Paul Penitentiary since the sittings of your Commission at that institution.

On June 27, 1937, a prisoner was shot and killed by guard "A," in the following circumstances:

The prisoner was engaged with a gang of men at work on the penitentiary property under the supervision of guard "B." He had apparently refused to proceed with his work, and guard "A," who was occupying a tower about sixty-five or seventy feet away, told guard "B" to tell the prisoner to go to work. The prisoner did not resume work, and the instructions were repeated.

Guard "A" has stated, in the evidence given before the coroner's jury, that he saw the prisoner raise his shovel to strike at guard "B" who tried to parry the blow with a stick. Because the prisoner continued his attempts to strike the guard, guard "A," thinking the prisoner was going to kill his fellow officer, called on him to stop. He states that it was possible that, due to the noise being made by a mechanical shovel, the prisoner might not have heard his warning, but, as the prisoner continued to aim blows at the guard, he shot at him with the twelve calibre shot gun with which he was armed. Four pellets, or slugs, entered the skull of the prisoner and were found in his brain.

Guard "A" has stated in evidence that his idea was to protect the life of guard "B" by shooting the prisoner in the legs. He states that it was not his intention to shoot the prisoner in the head. The evidence of guard "B" is:

"The prisoner was not working. I sent an officer to tell him to work. He did not obey; I went to him. He was on the bench and I said to him, 'bring the bench back to the place from which you took it, and if you do not do it you will lose some pay.' I told him that he would have to do his share of the work. I spoke very politely to him. He said, 'Christ, you still have the idea of taking notes away from me.' I must say that I had taken notes away from him the year before. He had his shovel in his hand and he tried to hit me. I had a loaded revolver but he did not give me a chance to draw it. I had a stick in my hand and I tried to parry the blows. I did not have time to avoid him."

It is unnecessary for our purpose to go into the other evidence beyond stating that it substantially corroborates the evidence of the two guards already referred to.

In his report to the Superintendent, dated July 8, 1937, the warden stated that, according to the evidence, guard "A" was justified in acting the way he had done in order to protect the life of guard "B" and to help guard "B" control the prisoner.

Two other guards were on duty in the tower on the wall about 225 feet away and were armed with rifles.

We are of the opinion that the evidence given in this case, accepted in its most favourable light to the guard in question, demonstrates either carelessness or incompetence in the use of firearms. If the officer's evidence is to be accepted, that he discharged a shot gun at a distance of from sixty to seventy feet from the prisoner aiming at his legs and hitting his head, it convinces us that the officer was most incompetent in the use of firearms. Not only was his incompetence fatal to the prisoner, but it might also have been fatal to the guard who was being attacked.

On the other hand, if the officer was not incompetent in the use of firearms, he must have shot deliberately to kill the prisoner. We do not think that, in view of the fact that the officer being attacked was armed with a revolver and that there does not appear to have been anything to prevent his escaping from the immediate attack of the prisoner, there was any occasion for deliberately shooting to kill.

We are of the opinion that the regulations affecting the use of firearms in prisons require careful review by the penitentiary authorities, having in mind the following principles:

1. The custody of the prisoners is essential.
2. The protection of the lives of the officers is imperative.
3. Inefficiency in handling firearms is dangerous, not only to prisoners, but to officers engaged in the service.
4. Unnecessary injury to human life by those engaged in the administration of justice brings the administration of justice into disrepute and tends to render more difficult the enforcement of law.
5. Wilful misuse, or reckless use, of firearms by members of the prison staff should be dealt with in the same manner as the commission of any other crime.

In considering these principles, your Commissioners emphasize the fact that it must always be borne in mind that, although prisoners are in custody, they are entitled to the same protection of law as is given to citizens at large. Officers and guards are appointed to administer the law, and they should receive no immunity from just punishment if they recklessly or unlawfully violate its provisions.

CHAPTER VIII

PRISON MANAGEMENT

CLASSIFICATION

In the second chapter of this report it was pointed out that classification and segregation form a fundamental basis of all reformatory treatment. As has already been stated, prisoners may be divided into three main classes; accidental or occasional criminals, reformable criminals, and habitual criminals.

The first step in the classification of the prison population is to segregate the incorrigible criminal in an institution specially designed for the treatment of this class of offender. It is hopeless to strive to effect the reformation of a prisoner while, at the same time, exposing him to the destructive association of depraved criminals who have no determination to live anything but degenerate lives of crime. With the incorrigible criminal removed from the ordinary prison population, the classification and treatment of the remainder may be approached with a greater degree of confidence.

The undeniable responsibility of the state to those held in its custody is to see that they are not returned to freedom worse than when they were taken in charge. This responsibility has been officially recognized in Canada for nearly a century but, although recognized, it has not been discharged. The evidence before this Commission convinces us that there are very few, if any, prisoners who enter our penitentiaries who do not leave them worse members of society than when they entered them. This is a severe, but in our opinion, just indictment of the present and past administrations.

The reformatory purpose of prisons was first given statutory definition in Canada in 1851, when the duties of the warden were stated to be, in part:

"To have in charge the health, conduct and safe keeping of the prisoners; to examine into and seek the success of the religious, moral and industrial appliances used for the reformation of the convicts, and to exercise for the whole establishment a close supervision of personal direction."

In 1869, the same principle was recognized in other words, and it remains in substantially the same form in the present Penitentiary Act. The statute reads as follows:

"Each of the penitentiaries in Canada shall be maintained as a prison for the confinement and reformation of persons male and female, lawfully convicted of crime, before the courts of criminal jurisdiction. . . ."

In its report, the Gladstone Commission¹ emphasized the necessity of a reformatory influence in prisons. The following quotations from the report express the views of that Commission:

"Sir Godfrey Lushington thus impressively summed up the influences under the present system unfavourable to reformation: 'I regard as unfavourable to reformation the status of a prisoner throughout his whole career, the crushing of self-respect, the starving of all moral instincts he may possess, the absence of all opportunity to do or receive a kindness, the continual association with none but criminals, and that only as a separate item amongst other items also separate; the forced labour, and the denial of all liberty. I believe the true mode of reforming a man or restoring him to society is exactly in the opposite direction of all these, but, of course, this is a mere idea. It is quite impracticable in a prison. In fact the unfavourable features I have mentioned are inseparable from prison life.' As a broad description of prison life we think this description is accurate; we do not agree that all of these unfavourable features are irremovable.

* * * *

Upon what does the reformatory influence which we desire to bring to bear more fully on the prison population depend? We answer (i) the administrative authority, (ii) individual effort, (iii) a proper classification of prisoners.

* * * *

(iii) The probabilities of success would be largely increased by a careful classification of prisoners. At present a large prison contains almost every type of offender. They are mixed up in hopeless confusion. In hospitals patients are classified and kept separate according to their ailments and requirements. The work of the doctor is simplified, time and effort are saved. The work of a prison chaplain in a large prison is inconceivably difficult, and his diagnosis has to be made under serious disadvantages. The smooth-tongued old offender occupies his time with meaningless professions of penitence; the prisoner who is reticent, because he feels his position, may have to be passed by for lack of time to penetrate his reserve. Old and young, good and bad, men convicted of atrocious crimes, and those convicted of non-criminal civil offences, are all to be found in the same prison. The chaplain and the governor have to attune their minds as best they can to each individual case as they pass from cell to cell. Under these circumstances their best efforts can only reach a portion of the prisoners. A sound and wise system of classification would make it more possible to deal with prisoners collectively by reason of their circumstances being at any rate to some extent of a like nature. Efforts could then be concentrated on the individuals who were contumacious, and with better chances of ultimate success."

¹ Report of the Departmental Committee on Prisons, Lond., 1895.

That classification is an elementary condition precedent to reformation was first recognized in the report of a Royal Commission appointed to investigate the conditions at Kingston Penitentiary in 1848. This Commission recommended that:

1. Juvenile be segregated from older offenders;
2. A separate cellular system must be used in place of a congregated system;
3. New arrivals should be kept in solitary cells;
4. Other prisoners should be classified; every gang should be secluded from the other.

By the Prisons Act of 1877 provision was made in England whereby the Secretary of State might, from time to time, by any general or special rule, appropriate either, wholly or partially, particular prisons within his jurisdiction to particular classes of convicted criminals. The Gladstone Committee reported that this power had been very sparingly used. The report states:

"First offenders are usually kept as far as possible apart from habituels and juveniles under 16, and similarly treated and further are not allowed to associate either in chapel or at work with other prisoners. We lay the greatest stress on the fact that no adequate attempt has yet been made to secure a sound basis of classification in local prisons."

Since 1889, the Canadian penitentiary regulations have made provision for the classification of prisoners.

In 1909, the Hon. Mr. Monk introduced a resolution in the House of Commons of Canada, which was unanimously carried. The resolution read as follows:

"... to ascertain what means could be adopted in Canada to insure a judicious classification and segregation of the convicts in our penal institutions and reformatories."

The annual report on penitentiaries for the year 1909-1910 shows that the wardens and chaplains of the penitentiaries, with one exception, urged on the Government the necessity of the classification of prisoners.

The 1913 Commission called attention to the recommendations that had already been made in Canada for the classification of prisoners. Its report stated:

"The inspectors who called for these reports in pursuance of Mr. Monk's remarks, made a recommendation to the Minister of Justice to take no action regarding them. They dismissed the proposal to classify prisoners and segregate first offenders in separate prisons or reformatories on the ground of expense and they reported that the classification of prisoners should be left to the judicial criminologist." The Commissioners further state in their report:

"It is solely with the object of classifying prisoners that separate prisoners are advocated. It has been urged that to make any attempt

at classification is to discriminate and discrimination is an evil that must at all costs be barred from our penitentiaries. Why should the natural law of discrimination between the good and the bad not be operative in a prison? The scientific treatment of moral delinquents means differentiation and discrimination at every turn. Possibly some day there may be a prison in which each inmate will have his particular case analysed by experts, with a view to special treatment, aiming at his readjustment to the proper standard of living. Such a development may seem visionary and impracticable. But surely we can, with reason and justice, move a little in advance of our present policy, which may be expressed in the words; 'All is grist that comes to our punishment mill'—the old and the young, the bad and the well-disposed, the hopeless and the hopeful, all treated as so much human waste in a common heap."

The 1920 Committee also recommended that steps be taken toward effective classification of prisoners.

In 1933, the Superintendent issued regulations making provision for such classification but, in his circular of instructions, he appears to have proceeded on a fundamentally erroneous assumption. He commenced by assuming:

"That when an accused person is placed on trial, the judge has made available to him the social history of such person and also information concerning his mental and physical state."

We know of no justification for his making this assumption, or for his basing any system of classification on the impression that, before sentence, a social, physical, and mental study must be made of the prisoner, and that his incarceration must be ordered according to information which has been furnished to the judicial authority.

It is recommended elsewhere in this report that such information should be made available to the court, but, until this is done, it will be necessary for the classification boards to gather their own information.

The regulations issued by the Superintendent provide for a classification board in each penitentiary to consist of the warden, who is to act as chairman, the deputy warden, chief keeper, chief trade instructor, physician, chaplain, and teacher, with such other officer or officers as the Superintendent or warden may direct. The duties of the members of the classification board are specifically stated. If these regulations were to be carried out they would form some basis for a proper classification. The regulations provide that the classification board shall meet on the second Tuesday of each month, and on such other occasions as shall be directed by the warden, that each prisoner shall be reclassified at the end of six months (the first six months being known as a probationary period), and that the proceedings of the classification board and the reports of the members shall be available to the chief of the Remission Branch, or his representative, when visiting the penitentiary.

The classification that has taken place pursuant to these regulations appears to have been designed, more for the greater security of the prisoners and the suppression of agitation, than to promote the reformation of the prisoners. As an example, Collin's Bay Penitentiary was created by the appropriation of money from the public funds to provide for special treatment of the most reformable prisoners. It now houses the most physically fit, regardless of character or reformability. On the list of prisoners "classified" for transfer to Collin's Bay during the sitting of this Commission at Kingston, one was a prisoner with twenty-six previous convictions. According to the evidence of the wardens of Kingston Penitentiary and Collin's Bay Penitentiary, the physical fitness of the prisoners is the prime consideration in selecting men for transfer to Collin's Bay Penitentiary. The reason for this method of selection is that the prisoners are required to do a great amount of heavy manual labour.

The inefficiency of the classification boards in the respective penitentiaries is the subject of comment elsewhere in this report.

Although there have been nearly one hundred years of legislation and agitation on the subject of classification, we regret to state that throughout Canada, both in the penitentiaries and the reformatories, there is very little intelligent or effective classification of the prisoners. As has been stated in another part of this report, one of the wardens referred to the classification board as a farce. This appears to have been the attitude of the officials toward the whole subject throughout the penitentiary. Some effort has been made toward a measure of segregation, but in most instances the work of the classification board has been directed only to determining to what employment the prisoner should be sent, rather than to what group he should be detailed for the purpose of receiving the best reformatory treatment.

The difficulty in making constructive suggestions concerning classification in Canada is increased by the dual authority over prisoners and other penal institutions, and the geographical distribution of the population. It is obvious that it is not practical in Canada to provide the same variety of institutions to house the various classes of prisoners as may be provided in thickly populated countries. In addition to this, the division of prison population between federal and provincial authority, which is dealt with in another chapter,¹ greatly accentuates the difficulties of proper classification.

It is of little value to develop modern methods for the treatment of prisoners in our penitentiaries if youthful and reformable offenders are to be given an elementary and secondary education in crime by association with experienced criminals in the reformatories and provincial jails. On the other hand, if the reformatories and provincial jails, which are now located at several points in the provinces, were under the same jurisdiction as the penitentiaries, it would be a comparatively simple task to develop a co-ordinated scheme of classification and treatment for all offenders, except those serving short sentences in the county jails.

¹ Chapter XXX.

Many of these provincial institutions are admirably located for the treatment of youthful, or what is called in England "Star" class offenders, without the contaminating influence of the dissipated and confirmed criminal.

No categorical rules can be laid down which will be applicable in detail to the classification of all prisoners. Those whose duty it is to perform this task must apply a large measure of discretion and wisdom in carrying out the task. It is suggested, however, that the following general principles should be followed:

1. The insane should be entirely removed from the prison population.
2. The habitual offender should be segregated in a separate institution.
3. Of the remaining population, young prisoners, that is those not over twenty-three years of age, should be set apart for special treatment.
4. The mentally deficient ought to be segregated under the guidance of a trained psychiatrist.¹
5. Provision should be made for the segregation in one institution of intractable and incorrigible prisoners.
6. The remaining prison population should be considered from the following points of view:
 - (a) Previous record;
 - (b) Social habits and training;
 - (c) Physical condition;
 - (d) Educational attainments;
 - (e) Training for future employment.

It is recommended that, with consideration being given to these general principles, the method of classification followed in England should be adopted. There the prisoners are divided into three classes, "Star," "Special," and "Ordinary." The names given to these classes are of little consequence, but, in no case, should the name "Preferred" be used. This was an unfortunate term improperly applied to the prisoners sent to Collin's Bay Penitentiary.

1. The "Star" class consists of those who should be separated from others because they have not been previously convicted, or not previously convicted of serious offences, and are not of criminal or corrupt habits.
2. The "Special" class is for men under the age of thirty who are serving first sentence of penal servitude, have previous convictions or records which show that they are not suitable for the "Star" class, and are not of poor physique or mentality. The object is to separate the younger men of criminal habits and

¹It is idle to attempt to maintain prison discipline when there is a fair sprinkling of mentally deficient prisoners in the general population. These prisoners have not the mental capacity to respond to discipline, nor have they the regenerative capacity to profit by reformatory treatment. Their instruction should be essentially vocational, and with proper segregation, discipline might well be less rigorous. It is, in our opinion, little short of cruelty to punish a mentally deficient prisoner for insubordination when he has not the capacity to respect authority.

tendencies who are vigorous in body and mind from those who are older, or are of poor physique or mentality, with a view to subjecting the young and fit men to forms of employment and training appropriate to their age and character.

3. The "Ordinary" class consists of persons who are unsuited for either the "Star" or the "Special" class.

The "Star" class prisoners are sent either to Maidstone Prison or Wakefield Prison. The population of Wakefield Prison consists mostly of prisoners who have substantial terms to serve but who are not of criminal habits. The "Special" class prisoners are sent to Chelmsford, and the "Ordinary" class to Dartmoor and Parkhurst. The type of employment, the educational facilities, and training and recreation are necessarily designed to suit the particular class of prisoners at each penitentiary.

We are of the opinion that, with the centralization of authority over penitentiaries, reformatories, and provincial jails, the principle that has been adopted in England, and which is working with satisfaction, might be applied to Canada with substantial benefit.

These suggestions are intended to form the basis of a system to be developed gradually, in the light of the results of similar systems in other countries, and with constant regard to the cardinal principle of all such classification—the reduction to a minimum of contaminating or deteriorating influences in prison life.

GRADES AND MERIT SYSTEM

After provision has been made for the proper classification of prisoners, it remains for the prison administration to decide upon the principles of discipline that are to be applied to each class. It is obvious that the same principles will not equally apply to all classes of prisoners. The same treatment cannot be applied to the incorrigible recidivist as to the youthful first offender, nor should the same treatment be applied to the youthful recidivist as to the mature and habitual criminal.

"The underlying principle is that discipline should be maintained by constructive rather than by merely repressive measures by encouraging the prisoner to maintain a standard rather than by holding out physical punishment in terrorem."¹

We believe that, with the recognition that in Canadian prisons there are a greater number of brutal criminals who have committed crimes of violence than there are in English prisons, this principle is as applicable in Canada as in England. Its limitations in dealing with such brutal and ruthless prisoners must be fully recognized, but, if this is done, it will prove a safe guide for prison authorities, and one which should be given a much wider application in Canada than has been the case in the past.

Marks for good conduct and industry that entitle a prisoner to earn a remission of sentence are effective in promoting prison discipline,

¹ Modern English Prisons, L. W. Fox, page 78.

but, in the opinion of your Commissioners, the prison routine may be adjusted to embody a greater measure of the philosophy of ordinary life. Good conduct and industry should be allowed to win for the prisoner, not only the reward of a shorter sentence, but increasing privileges and some mitigation of the rigours of prison life. This may be accomplished by a stage system within the classes of prisoners that have been created. It is emphasized that this stage system must be within the classes and not, except in rare occasions, from one class to another, because it is a well known fact that the old and experienced criminals are often the best behaved prisoners. They realize that good conduct, industry, and diligent attention to prison rules and routine win the most comfortable passage through the period of detention. To transfer this prisoner from one class to another because of good conduct in prison would be to destroy the efficacy of classification.

In England, three stages have been established in many prisons, and four in others. Formerly, four stages, each lasting for a month, existed in the local prisons.

"It was not until the fourth stage had been reached that the privileges counted for anything, and as the long sentence prisoner earned all he could in three months it was thereafter of no value in living in hopes of better times to come."¹

The new system does not make any attempt to provide a system of increasing privileges for a short-sentence prisoner. Three stages are ordinarily provided, the first stage lasts for three months, the second stage for six months, and the third stage for the balance of the sentence. The privileges extended are as follows:

First Stage—Educational books and standard works of good fiction are allowed. Except in the "Star" class, visits are allowed every two months and a letter once every two months.

Second Stage—Prisoners are eligible for concerts and lectures. Greater privileges and chosen fiction books are allowed. Prisoners are allowed a letter and a visit once a month. The period of the visit, as in the first stage, is twenty minutes.

Third Stage—The period of the visit is extended from twenty to thirty minutes, and in addition to the privileges already allowed, prisoners are permitted certain recreations in their cells in the form of crossword puzzles, chess, drafts, jig-saw puzzles, etc.

This stage system is applied with variations. For example, when your Commissioners visited Wakefield Prison they found about forty prisoners allowed to work in a camp under conditions very similar to a military or logging camp in Canada. Custody was at a minimum, and the prisoners were permitted to conduct themselves as nearly as possible under conditions but narrowly differing from those of liberty. This

¹ The Modern English Prison, L. W. Fox, page 80.

privilege was extended only to specially meritorious prisoners whose term of imprisonment was shortly to expire. The treatment is designed to diminish the gulf that always exists between liberation from prison and assimilation into ordinary society.

Long term prisoners in other prisons are eligible to be admitted after four years (women, three years) to a special stage. In this stage, in some prisons, they have greater freedom of association, some evening recreation, the possibility of earning gratuities that may be spent on articles of comfort, and relaxation such as use of newspapers, tobacco, etc. During the visit of your Commissioners to Maidstone and Dartmoor Prisons, we studied the privileges extended to these long term prisoners, and were particularly impressed with the treatment accorded to those serving life sentences at Maidstone, where they are provided with special quarters in which they may associate and enjoy a considerable measure of recreation.

We are of the opinion that the confinement of a prisoner for life is a sufficient deterrent to others without accompanying the confinement with all the punishment that is ordinarily incidental to a prison sentence. The sentence, itself, is, of course, a complete deterrent to the prisoner. There remains no object in subjecting a tractable prisoner who is serving a life sentence to further severity.

It is always a serious problem for those engaged in the conduct of prisons to determine how far privileges should be extended to all prisoners irrespective of character or class. After careful consideration of the whole subject, and after observing the different methods applied in various countries, we are of the opinion that a middle course should be adopted in respect to Canadian prisons. In the first place, all prison privileges should not be extended to the entire prison population. On the other hand, no part of the prison population should be entirely deprived of all privileges. A certain minimum should be established below which the prison authorities should not be allowed to go. This minimum ought to include library books, educational facilities, letters, and visits. These may be extended to a maximum, according to conduct and class, to include eating in association, games, newspapers, radio, and concerts. Any individual might be deprived of the latter class of privilege at any time as punishment for breach of prison discipline.

The prisoners should always be made to understand that these latter ameliorations are *privileges*, to be earned by good conduct and not to be possessed as a right. If stress is not laid upon this, the extension of these privileges will become but a concession to the agitator and an incentive to further agitation.

If the recommendations of this report are adopted, we are of the opinion that, with the proper classification and grading of prisoners, the reward for good conduct may be made an effective means, not only of discipline, but of reformation.

DEPRESSING EFFECTS OF CONFINEMENT

The following factors have an undermining influence on the morale of prisoners and interfere with their reformation in our penal institutions. They have only half an hour of daily exercise in the open air, spend sixteen out of twenty-four hours in a poorly ventilated cell, and, in winter, a large portion of their remaining time in stuffy and overheated shops, so that they are practically deprived of exercise, sunshine, and fresh air, which are so essential to their physical and mental development. The prisoners have no choice of associates, but are compelled to converse with neighbours, who, in most cases, are unsympathetic or worse. They do not receive any newspapers and are therefore not aware of what is going on in the world. They have no varied social or mental contacts to keep their minds active, and so are thrown almost entirely into retrospection and brooding, subject to a constant craving for freedom, a furious hatred of all restraints, and a hunger for bodily and spiritual necessities. They have an utter lack of responsibility, with no need to care about food, clothing, shelter, a job, or planning a day's work, but are given orders and a daily task to perform, until finally they lose all initiative, physical and mental alertness, and are left with senses atrophied from disuse. They have an over-abundance of leisure and no necessity for hurrying about anything. Anything that can be put off until tomorrow is put off until tomorrow, and they become adepts at procrastination. The guards often treat them with apathy, or even brutality, and do not try to help or encourage them, believing that an officer's duty is merely to see that the prisoners obey the rules and that they do not try to escape.

The result of all this is that, when a prisoner comes out of prison, after the first thrill of freedom, he relapses into habitual lethargy and becomes enveloped in a thick shell of apathy. He is badly handicapped in his efforts at rehabilitation. He wanders aimlessly in the midst of the sharp rivalry and feverish activity of the free world.

RECREATION

A properly planned program of recreation is a most essential part of prison life. It should be regarded, not as entertainment, but as part of the treatment necessary to strengthen soul, mind, and body. It should absorb time that would otherwise be spent in idleness or brooding, and should be an important factor in reformation. These objects can only be attained by keeping a prisoner physically fit by adequate outdoor exercise, and by keeping his mind occupied by labour and recreation. When the grades and merit system is put into effect, the better class of inmates should be allowed to congregate in the corridors of the closed ranges to converse and to engage in games of cards, checkers, etc.

Recreation is divided into two parts: physical activities—including physical training, drill, gymnastics, and games such as football, volley-

ball, handball, quoits, etc., and mental activities, such as reading, the pursuit of hobbies, concerts, radios, lectures, and games not requiring any physical effort.

Physical Activities

The regulations dealing with this subject are as follows:

"46. All convicts employed in shops, clerical work or any confined work, shall receive exercise in the fresh air, weather permitting, for not less than one-half hour per day during the winter, and forty minutes per day during the summer, such time to be exclusive of the time required to go to or from cells or work.

47. The exercise shall be, as far as possible, of a varied nature; not less than one-half of the exercise period shall consist of exercises of a rhythmic or systematic nature such as followed in the Public and High Schools of Canada.

48. Not more than half of any exercise period may be used for free movement exercise, but no exercise shall be permitted which calls for competition between groups of convicts or permits or calls for personal contact of convicts.

50. All convicts shall be given not less than one-half hour exercise in the fresh air on each Sunday and such holidays as may be designated by the Minister of Justice."

Many representations were made to the Commission concerning these regulations. Some of the main grievances are as follows:

1. The time allowed each day, thirty minutes in winter and forty minutes in summer, is not sufficient, and the type of exercise given is not a form of recreation, but in many cases more of a hardship and punishment;
2. Those employed on outside work are not granted this period on weekdays, and are therefore prevented from participating in any free movement exercise, including games;
3. If weather conditions are bad, the prisoners are deprived of this period, perhaps for some days;
4. The nature of the exercise is too limited. Prisoners should be allowed part of the time to relax and converse with each other;
5. Softball, handball, quoits, and other outdoor games should be permitted where proper facilities are available;
6. On Saturdays, Sundays, and holidays, the prisoners should be given much longer recreation periods in the yard.

On the whole, your Commissioners are of the opinion that the criticisms contained in these representations are justified, and that the present regulations are too stringent to allow prisoners to obtain sufficient outdoor recreation and exercise. In Great Britain and the United States, much more latitude is given, both as to time and variety. The English rules provide for one hour per day, generally equally divided between the

morning and the afternoon, to allow an additional break in the prisoner's daily labour. Further time is often given on Saturdays, Sundays, and on holidays. At Dartmoor, in England, where many of the worst criminals are confined, they are yet allowed out in the grounds on Sunday for three separate periods of about an hour each.

All prisoners, and not only those doing indoor work, should be allowed to participate in exercise periods. While, perhaps, those employed at heavy manual labour in the open air should be excused from physical training exercises, there appears to be no reason why they should not participate in games or other free movement exercises.

Your Commissioners believe that accommodation should be provided for indoor exercises when weather conditions are sufficiently bad to prevent the prisoners from taking their exercise out of doors.

Under regulations 47 and 48, one half of the period *must* be given to physical training or drill, and not more than one-half may be used for free movement exercises. In most penitentiaries, free movement exercises consist of walking in a ring, with no conversation allowed. Volleyball and horseshoes are played by some prisoners in some penitentiaries, but, in other places, no games of any kind are allowed.

Regulation 48, which prohibits exercise calling for competition between groups of prisoners or exercise permitting personal contact, is too drastic, and bars the introduction of many games that could be played without prejudice to discipline and with some beneficial result. At many institutions in Great Britain your Commissioners saw competitive games being played by the prisoners, and they were informed that there had been less trouble arising from fighting or other disputes amongst the players than would be the case in similar games played outside the prisons. The principal reason is that the permission to play games is a privilege, and the knowledge that misbehaviour on the field will result in its cancellation acts as an effective check.

From evidence given before the Commission, it was shown that, when softball was played at Kingston Penitentiary, the officers had no trouble with the players, and some of the officers stated that it raised the morale of the prisoners and resulted in less obscene language.

Such games undoubtedly teach the prisoners a number of highly desirable features, including self-control, and, with the proper classification of inmates, much greater latitude might be permitted them. The scope and character of the games permitted should be left to the good judgment of the Prison Commission herein recommended. Obviously, relaxation of this kind will be beneficial to those who are in a position to participate in the games, and, perhaps, even to others, who, while unable to participate, might be permitted to watch them. Great care must be exercised in the granting of such privileges, however, and no abuses should be permitted. In Scotland and England, many outdoor games are permitted, which are generally admitted to be beneficial to the health and morale of the inmates. Your Commissioners are impressed with the necessity of providing more recreational time outside the cells, particularly on Saturdays, Sundays, and holidays.

Most prison officers and nearly all prisoners have informed your Commissioners that the most trying period is that when the inmate is alone in his cell. On weekdays this is usually for about sixteen hours per day. On Saturday afternoons, Sundays, and holidays (which often follow Sundays) the prisoner spends his entire time in a cell. One officer stated to the Commission that after this period the depressing and antagonistic attitude of the prisoners was quite apparent. In most institutions outside Canada that were visited by your Commissioners, they found considerably more latitude in the way of recreation, and they are convinced that necessary changes should be made in the penitentiary regulations to bring Canadian institutions into line with those of other countries in this respect. Staffs in Canadian penitentiaries are as large as, if not larger than, in most other countries, and your Commissioners do not believe that any increase of staff would be required to provide for this.

In the report of the 1920 Committee it was recommended that, "On any day, whether a Sunday, public holiday or other day upon which a full half day's labour is not performed by a convict . . . such convict shall be permitted to be out of his cell during such day for at least three hours, of which at least one and one-half hours shall, weather permitting, be passed in the open air. . . ." Your Commissioners believe that this recommendation should long ago have been put into effect.

Concerts

Regulations 711 to 718, inclusive, set out the conditions under which wardens may arrange for concerts. These may be held monthly during the winter. Such concerts must be held during working hours, without expense to the public, and no prisoner is permitted to take part as an artist or performer. Community singing, however, may be permitted at the discretion of the warden. Concerts create a useful diversion for the inmates, and should be encouraged, whereas, in Canadian penitentiaries they have seldom been held the maximum number of times permitted by the regulations. While it is realized that it may have been difficult to hold concerts more often because of the situation of some of the institutions, your Commissioners believe that special efforts should be made to provide them more frequently. Your Commissioners also believe that, if proper classification were provided, the best class of inmates might be permitted to participate in such concerts.

Your Commissioners also suggest that lecturers should be encouraged to come to the penitentiaries from time to time to give lectures on approved subjects. These would be of advantage to the prisoners from an educational as well as a recreational point of view.

Radios

The question of providing radios in the penitentiaries has been under consideration by the Superintendent and, in some of these, radios with loud speakers have already been installed. The present practice of purchasing radio equipment by contributions from the prisoners does not

meet with the approval of your Commissioners because it leads the inmates to regard the radio as their own property, and, when they have left the institution, they regard their contributions as having been placed to the improvement of Government property. Neither are your Commissioners in favour of radios with loud speakers, because dissension and turmoil are created when certain inmates object to programs that may please others, and it is impossible to please them all. Some of the inmates, too, would rather read in quiet. Unless ear phones are provided for individual prisoners, so that they would not be compelled to listen to the programs if they did not wish to do so and they could be deprived of the privilege if their conduct was not satisfactory, your Commissioners would recommend that radio entertainment be abolished.

Newspapers, Books, and Magazines

At the present time no newspapers are allowed in the penitentiaries. The only source of obtaining news of important current world events is by means of a bulletin prepared by the teacher, chaplain, or other qualified officer. These are usually distributed weekly to the inmates. They are very abbreviated, and leave much to be desired in the way of keeping the inmates apprised of what is going on in the world outside the penitentiary. If prisoners are entirely shut off from obtaining news of the world for a long period, they will be ignorant of it when they are released, and will be under a real handicap in their search for work. Your Commissioners believe that a properly selected weekly newspaper, judiciously selected by the Prison Commission, should be provided at public expense to prisoners in our penitentiaries. This might be some weekly newspaper published in a large city of the district in which the penitentiary is situated.

The present regulations provide that an inmate shall not be permitted to have the use of books and magazines for some time after admission to the penitentiary. Your Commissioners believe that, as this is a crucial period in his term of imprisonment, he should be permitted reading materials from the day of his entrance to the penitentiary.

Hobbies

Painting, sketching, or drawing, by prisoners in their cells, as mentioned in regulation 719 to 721, should be encouraged, and every assistance afforded by the prison officials to those prisoners desiring to do this work. Regulation 721 stipulates that the subject of any proposed painting, sketch, or drawing must have the approval of the warden. No drawing can be done in the cells until the matter has been submitted to the warden. If an inmate is given the privilege of drawing, it seems entirely unnecessary that the subject he wishes to draw should have to be approved. After his sketch or drawing has been made, if it is objectionable, the drawing could be taken away from him, and, in more serious cases, the inmate could be punished, but to submit what he intends to

draw before he commences it, and to be forced to adhere to the approved subject without deviation afterward, appears ridiculous. This regulation should be deleted.

Your Commissioners suggest that the Prison Commission should make a very careful study of the whole subject of hobbies and other cellular occupation for inmates. It has been demonstrated to your Commission that cellular occupation provides a beneficial relaxation for prisoners, and it would appear that regulation 722, which permits a prisoner to engage in cellular employment and diversion, has never been properly observed in Canadian penitentiaries.

EDUCATION

Existing penitentiary regulations establish certain requirements for the education of prisoners, including the provision of a library and the appointment of a teacher who is also to perform the duties of librarian and act as a member of the classification board in the institution where he is employed. Regulation 81 is as follows:

“There shall be compulsory school attendance for:—

- (a) All illiterate convicts who are capable of being taught, and
- (b) Such convicts as have not attained the standard of education of the average public school pupil at the maximum age of compulsory school attendance for the Province in which the Penitentiary is situated.”

The first of these provisions is generally observed but, making due allowance for exemptions on the ground of unteachability and ill-health, applies only to one or two per cent of the penitentiary population.

Your Commissioners found that the second provision has not been carried out, and that, in some instances, there was complete ignorance of its existence or requirements. The application of regulation 86, providing that prisoners may pursue their studies in their cells, has been almost entirely disregarded. The usual explanation offered for this disregard is that the teacher has not had sufficient time to render such assistance. Provision that permission may be given to a prisoner to take up more advanced studies, including correspondence courses, is of little value in practice because the prisoners have seldom the necessary funds for the purchase of books and materials.

Regulations 396 and 397 provide that the teacher shall conduct the school as directed by the warden, and that he shall be under the direction of the warden in visiting prisoners who desire his assistance in educational matters. As a member of the classification board, it is the duty of the teacher to examine the prisoners with a view to determining their literacy, general knowledge, and teachability, and to determine their suitability for compulsory school education.

The observance of these regulations is largely perfunctory, and individual examination and schooling of the prisoners is almost entirely lacking. The teacher, himself, is not given the recognition to which the

importance of his work entitles him. Even his uniform as an officer is of a lower grade than that of the other members of the staff who form the classification board. This inferiority of status not only reacts upon the teachers themselves, but has a tendency to lessen their standing in the eyes of the prison population.

There has been little opportunity of co-operation between the teachers and the trade instructors, even though both often desire it, and, as a result, academic instruction and vocational training have had no complementary relation to each other.

The regulations provide that books and periodicals shall be selected by a library board composed of the warden, chaplain, and teacher, and that such selections shall be submitted to the Superintendent for approval. This library is under the management of the teacher, who is also the librarian.

Chaplains are permitted to maintain a library of religious books, tracts, or magazines, provided it does not entail expense to the public. These are usually kept locked up, apart from the general library, in the chaplain's office. No religious book may be issued to a prisoner without the written recommendation of the chaplain, and the latter cannot recommend the issue of any such book to a prisoner unless such prisoner has been placed under that chaplain's spiritual charge. Your Commissioners are of the opinion that the religious influence is most important and that, consequently, a modest grant should be given to each chaplain for the maintenance of such a library.

Education has been largely neglected in all Canadian penitentiaries, and no real interest has been taken in this important feature of reformative treatment. The attitude of most executive officers is one of tolerance and grudging acceptance, without care to see that even the minimum requirements are observed. There has been no indication at any Canadian penitentiary of the necessary interest in the school, its work, and its possibilities. This attitude is discouraging to the teachers and detrimental from every point of view. Some of the teachers lack experience, training, and aptitude, and have not the proper personality to make a success of their task. Others have become discouraged by reason of their inferior status and the indifference of higher officials. The schoolrooms are all poorly equipped and most of them lack proper lighting and ventilation. The accommodation is meagre and unsuitable—frequently in a remote location in the institution—and the rooms are left untidy and unclean.

Education should be regarded as an essential part of any program of rehabilitation, and it should embrace religious, academic, vocational, health, cultural, and social training. The problem is fundamentally one of adult education, and not merely the correction of illiteracy and the provision of correspondence courses as contemplated by present regulations. To achieve any worth-while result, individual treatment is required. The principle of compulsion is unimportant, and mass treatment is unsatisfactory. The prisoner should be regarded as an adult in

need of education, as well as a criminal in need of reform. Prisoners, at present, have many monotonous hours of leisure, which, under guidance and direction, could be utilized for their betterment.

Your Commissioners were unable to find in any penitentiary that any attempt had been made to institute a satisfactory or well-rounded educational program. There is no vocational education worthy of the name. Any such training is largely incidental to carrying on the prison industries. There is little use of the library as an agency of education. It is true that recreational reading is indirectly educational, but reading can, and should, be used for direct education. At present there is no stimulation or guidance, and little attempt to utilize any but text books in the education of the prisoners.

The libraries in all our penitentiaries are located in cramped and inconvenient quarters. Catalogues are not complete or readily available. No surveys have been made to discover reading tastes or habits; no records have been kept to find out which books are most often in demand, and, as a result, books are ordered in a haphazard manner without any attempt to apply the library appropriation to its most advantageous use or to shape the library to any definite end. The inevitable outcome is that the libraries are mere collections of odds and ends of the publishing trade, and that the number of volumes has no relation to the effectiveness or utility of the collection. All libraries in Canadian penitentiaries require a drastic weeding out of old and useless books and the installation of a definite system of book selection, cataloguing, and record keeping.

No doubt much of this disorder and inefficiency is due to the fact that no trained librarians are employed in the penitentiary service. A teacher is not necessarily a librarian, and a poor teacher will generally be a poor librarian. Teacher-librarians in penitentiaries should be trained in pedagogy, and trained in librarianship, and should possess the proper personality and competence to impart information to those in their charge.

There should be close co-operation in health education between the medical and educational staff, and such education should include the fundamental principles of personal and community hygiene. Greater attention should also be devoted to cultural development, particularly in cellular activities.

In penitentiaries that are located close to established universities there appears to be no reason why prisoners should not be permitted to take university instruction courses and lectures when they are far enough advanced to profit by them. Visual aids to education, such as lantern slides, still pictures, and educational films, might also be made available.

Proper facilities in the way of class rooms and elementary equipment, such as desks, chairs, and black boards, should be provided. This could be done at comparatively little expense to the public because practically all necessary work could be done in the institutions and only the materials should need to be provided.

Greater use could be made of the services of intelligent and well-educated inmates acting under the instruction and guidance of staff teachers.

Use should also be made of the voluntary assistance of individuals and agencies outside the institutions. This is done with great effect in England, where an adult education scheme, with the advice and co-operation of the Adult Education Committee of the Board of Education, was put into effect in 1923. The primary aim of this scheme is, not so much to improve the standard of education of imperfectly educated prisoners, as to counteract the mental deterioration inevitably attendant on prison life, and to increase the prisoner's fitness for citizenship by stimulating his mind and furnishing it with material for healthy activity while in confinement, with a view to the projection of such education in the prisoner's life after discharge. Evening classes are held in the prison after working hours, and the subjects are chosen to include, not only school subjects, such as history, mathematics, or modern languages, but vocational subjects, such as shorthand, gardening, technical trade courses, handicrafts, and subjects of general interest, such as first-aid, literature, or drama—in fact, any subject which is, in the widest sense, educational, and for which qualified persons can be secured. The scheme depends entirely on the willing help of voluntary teachers from outside the prison, although many prison and Borstal officers also give their evenings to this work. The English Commissioners, in their report for the year 1935, state that in that year there were 383 voluntary teachers and 682 unofficial visitors.

To assist governors of prisons in framing their educational schemes, and in enlisting the services of suitable teachers, those in the locality who have suitable qualifications are appointed as "educational advisers" to each prison. In 1935, there were thirty-six of these educational advisers, most of whom were directors of education or university professors. The educational advisers and teachers are, from time to time, invited to confer with the Prison Commissioners for a full discussion of the principles and problems of the work and its relation to the work done by other voluntary workers and the prison staff. The opinion of the English Commissioners as to the value of these conferences is given in their 1935 report:

"All these conferences were well attended and afforded a valuable opportunity for the discussion of many subjects in connection with the administration and development of our Penal System. They are valuable, too, as a means of making better acquainted, all those who are interested in prison work. Personal knowledge of one another is the best solvent of difficulties and misunderstandings and the surest basis on which voluntary and official effort can co-operate."¹

The English educational scheme includes other activities of a more recreational nature that have been found by experience to make a useful contribution to the mental well-being of the prisoners. Periodical

¹ Report of the Commissioners of Prisons and the Directors of Convict Prisons, Lond., 1935.

lectures covering a wide range of subjects are given by outside lecturers and, in some prisons, occasional evening debates and concerts are permitted. There is no intent in the English scheme to *amuse* the prisoners. The sole object of such recreational activities is to provide a therapeutic mental stimulus and to counteract "prison psychosis."

The attention of your Commissioners has been drawn to the annual report of the Superintendent of Penitentiaries for the fiscal year ended March 31, 1937. This report "includes a résumé" of warden's reports from the various Canadian penitentiaries and, with the single exception of Dorchester Penitentiary, contains the stereotyped phrase, "The school functioned in accordance with regulations and instructions." This language is not used in any report made by any warden or teacher, and it is an entirely unwarranted assumption from them. In some instances the reports of wardens and teachers are directly to the contrary effect. The situation brought to light by the investigations of your Commissioners is also at variance with such a statement.

While it is true that regulation 81 does not specifically state the extent of the school attendance, under other regulations the teacher is required to conduct the school as directed by the warden, to determine the number of classes he can form and teach, and the numbers of prisoners to be included in each class. Exemption from school attendance is provided only for those prisoners who are classed by the physician and teacher as unteachable or as having such a low standard of mentality as to render it probable that they would receive no benefit. Such prisoners may be removed from the school, or exempted from attending, upon the certificate of the physician and teacher. Prisoners may also be exempted from school attendance on the ground of ill health when a certificate has been provided by the physician.

The spirit and intent of these requirements is clear. Nevertheless, they have not been observed in practice. At Collin's Bay Penitentiary the enrolment was twenty-one out of an average population of nearly 200, approximately five per cent, and the average school attendance 9.4. The warden's explanation was that they could not put too many in school or they would not have sufficient work gangs—that the observance of the regulations would disorganize the construction work. At Kingston Penitentiary, it was stated that it was impossible to follow the regulations because there was not sufficient accommodation for the number that would be involved. At St. Vincent de Paul Penitentiary, the prisoners under twenty-one years, about fifty in number, received practically no schooling because they were not permitted, after April 22, 1936, to attend school with adults. Some provision was made for teaching these boys after representations had been made to the warden by your Commissioners, but this was not until March 20, 1937. Since then they have attended school one half day per week. Lack of accommodation and teachers is the reason assigned for the large "waiting list" of adults in this institution. At Dorchester Penitentiary, the reason given was lack of

facilities, and prisoners of grade 4 and upwards were refused education. At British Columbia Penitentiary the class for young prisoners was abandoned in May, 1936, although a few were permitted to continue studying with adults. At Manitoba Penitentiary, out of a population of 275 to 300, the average number enrolled at school was about seventy-five, with an average daily attendance of twenty-four. At Saskatchewan Penitentiary education ended at grade 6. Out of a population of 350 to 400, the enrolment ranged from fifty-five in April, 1936, to seventy-three on March 31, 1937, with an average daily attendance of 23.6. The requirements of penitentiary regulations as to the provision of an exemption certificate by the physician and teacher were not observed at any of the penitentiaries.

Your Commissioners deplore that a report from the Superintendent of Penitentiaries to the Minister of Justice should include a statement, such as that quoted above, which conveys to Parliament and to the general public an impression so at variance with the facts.

Your Commissioners recommend that the entire educational system in Canadian penitentiaries, including school, library, and vocational training, should be revised and remodelled to ensure that:

- (a) Teachers and librarians who are selected should have training in pedagogy and in librarianship, and have the necessary personality and zeal to carry out the important task these officers are called upon to perform;
- (b) When suitable and properly trained teachers and librarians are secured, they should be paid an adequate remuneration and given an adequate status in the official personnel;
- (c) Co-operation should exist between the teacher and the trade instructors, chaplains, and doctors, with a view to providing a more complete and co-ordinated system of education;
- (d) School rooms and library quarters should be modern, clean, accessible, and kept clean and bright, with proper ventilation and lighting;
- (e) Individual treatment should be given prisoners as far as practicable, and they should be encouraged to extend their education by guided reading and study, lectures, and other cultural influences in their leisure hours;
- (f) A properly selected, properly catalogued, and properly utilized collection of books and magazines should be provided and used to the fullest extent in promoting the general educational scheme;
- (g) A grant should be given to provide a small library of religious books, under the care of the chaplains of the penitentiary service, for the use of prisoners of their faith;
- (h) The English educational scheme should be studied by the Prison Commissioners, and adopted as a model for the establishment of a wider educational program in Canadian institutions, which will include the services of voluntary educational workers and

- lecturers approved by the Prison Commission, and will incorporate many other of the admirable features of the English system;
- (i) Educational facilities, in their widest scope, should be extended to all the prison population capable of benefiting by them, and particularly to youths and younger men.

MEDICAL SERVICES

Medical care in a penitentiary includes the treatment of both the physical and mental condition of the inmates. It is necessary that an efficient medical staff should be retained in order to correct, as far as possible, any physical or mental defects of the prisoners. For this purpose, the services of a physician, a psychologist or psychiatrist, and a dentist, should be available at each institution. We already have a physician and a dentist in attendance at each Canadian penitentiary but, although it is now generally recognized that the services of a psychiatrist are also essential if a thorough examination is to be made and proper treatment is to be given to each individual prisoner, provision has not yet been made for the regular attendance of a psychiatrist or psychologist.

Segregation of all mental, contagious, and infectious diseases should also be made.

Physical defects are often the cause of irascibility and of a propensity for criminal conduct. The removal of such defects will often result in the successful reformation of prisoners who have been afflicted with them. Defective eyesight, infected teeth, infected tonsils, adenoids, deviation of the nasal wall, flat feet, and improper functioning of the digestive and intestinal organs, when properly treated and corrected, will often bring an amazing transformation in the attitude of the sufferer. Hysteria and epilepsy are often the cause of criminal conduct. An interesting study of the role of the ductless glands in criminology has been made by Dr. John Harding,¹ of the staff of the New York State Reformatory at Elmira. He points out the great influence on human characteristics and conduct of the thyroid, pituitary, adrenal, and thymus glands, and notes that pathology is giving place to endocrinology to such an extent that no up-to-date physician can now fulfil his proper duties without some knowledge of the functions and treatment of these glands.

Nothing should be omitted which might improve the character of the prisoner. Thorough mental and medical examinations, complemented by a knowledge of his personal history, background, and family history, should be made of every prisoner by an expert psychiatrist and physician. Proper treatment should follow in an effort to remove the causes of his criminal tendencies. Quite apart from humanitarian considerations, the question of greater economy is involved because, as stated in another chapter, the cost of maintaining a prisoner in the penitentiary is high, and, if he can be cured, he ceases to be a charge on the state and becomes, instead, an asset. From any point of view it is necessary that a full-

¹ Extracts from Penological Reports by members of the management and staff of the New York State Reformatory, Elmira, Summary Press, 1926.

time physician and a full-time psychiatrist should be provided for the larger institutions, and, at least, a part-time physician and part-time psychiatrist for the smaller ones.

A sanitary hospital, with modern equipment and with wards instead of the cells, which already exist in most Canadian penitentiaries, must be maintained. Only a few cells should be retained, and these only for the use of unmanageable patients. There should be separate wards for tuberculosis and venereal disease patients and for those under observation because of mental abnormalities.

Your Commissioners believe that a physician who attends to the daily routine in a penitentiary for a long term of service often develops a skeptical attitude toward complaints of prisoners. In view of the fact that a great number of prisoners are habitually endeavouring, and occasionally succeeding, in deceiving the doctor, he is apt to believe that there are more malingerers than actually exist. A solution might be found in the interchange of physicians from one institution to another, so that, even though still in an institution, there would be a change of environment, personnel, and patients.

In the federal institutions in the United States, the medical service is entirely divorced from the penitentiary management and the administration of the Department of Justice, and placed under the Department of Health. While opinions were expressed to the effect that this system has been a success in the United States, your Commissioners are hesitant in making any recommendation on the subject. The Prison Commission, which we hope will replace the present one-man control of Canadian penitentiaries, should make a careful study of this question and decide whether it is preferable to have medical services under the prison authorities or under the Department of Health. If the Prison Commission should decide that the medical services ought to be transferred to the Department of Health, there will be no further necessity for the stipulation that a medical doctor should be one of the members of the Prison Commission.

Dietary arrangements in the penitentiaries are most important. The food provided should be wholesome and properly cooked. Uniform diets should be applied in all institutions. They should be based on the recommendations of experts, and carefully arranged to provide, without undue monotony, for a proper balance of necessary dietetic elements. Special diets should be provided for vegetarians and sick prisoners.

RELIGIOUS SERVICES

Provision is made in the penitentiary regulations for the services of a Protestant and a Roman Catholic chaplain at each of the Canadian penitentiaries. There is also a Jewish chaplain at St. Vincent de Paul. Five Protestant chaplains are engaged on a full time, and two on a part time, basis; six Roman Catholic chaplains are engaged on a full time, and one on a part time, basis. The chaplains have the rank of senior

officers and, if they desire to wear uniforms, they are supplied with them. The duties of the chaplains are set out in the regulations, and may be summarized as follows:

They shall be responsible for the religious instruction of all prisoners who are reported to the warden as being adherents respectively of the Protestant or Roman Catholic faiths;

They are to be diligent in visiting and conversing with the prisoners, subject to the direction of the warden;

They are responsible for seeing that the prisoners are furnished with the Scriptures and recognized religious literature;

They are forbidden to proselytize, and must not write letters for the prisoners, except by leave of the warden;

They are members of the classification board;

They are subject to the general penitentiary rules and regulations respecting communication with those outside the penitentiary service.

The printed "Rules of Conduct and Prison Offences," supplied by the Penitentiary Branch for the guidance of prisoners, contains the following rule:

"He (the prisoner) shall hold communication with the officer in charge of him only on matters connected with his work, with the Physician only on matters connected with health, and the Chaplain only on spiritual matters."

This rule is an amplification of regulation 139, which is as follows:

"No convict shall speak to an Officer, except from necessity in the course of duty, or in exchanging proper salutations when meeting or passing."

All chaplains hold religious services in the penitentiaries at least once a week. Attendance at these services is compulsory unless a prisoner is exempted by the written order of the warden. The rules provide that exemption shall be granted in the case of any prisoner,

"declaring that he cannot consistently with his conscientious convictions attend the services of either the Protestant or Roman Catholic Chapels."

The warden may also exempt prisoners from attendance at chapel service on the advice of the physician or because they are of non-Christian faith. Provision is made for the latter to hold their own services and, in some of the penitentiaries, regular services are held for those of the Hebrew faith.

In addition to the services conducted by the regular chaplains, the warden may permit the Salvation Army, including its band or orchestra, to conduct one service in each month, but the members of such a party are not permitted any personal communication with the prisoners unless with the special permission of the warden, and attendance at such services is voluntary. Outside clergymen may visit the prisoners when given permission by the warden, and periodic missions are allowed.

Chaplains are permitted to distribute religious literature to prisoners of the same faith and, in addition to the regular weekly services, many chaplains conduct classes of instruction and personally supervise the religious training of prisoners in their charge.

Your Commissioners are of the opinion that the religious services, taken as a whole throughout the penitentiaries, are unsatisfactory. There are some exceptions, where the particular type of chaplain appointed to the penitentiary service is peculiarly fitted for the work he has to perform. For the work of these chaplains we have nothing but commendation.

There is probably no more difficult task in the missionary enterprises of any church than the evangelization of the penitentiary population, but this is no justification for neglecting the task or treating it with indifference. It appears to your Commissioners that it has been regarded officially that a chaplain is performing his duties satisfactorily so long as he can show that he has been holding the required religious services and going through the form of his pastoral functions, albeit with a minimum of inconvenience to himself. In the opinion of your Commissioners, the mere holding of religious services, important as this is, when without diligent and constant personal service, is of little avail in accomplishing any measure of reformation.

It is essential that the chaplain should gain and hold the confidence of the prisoners. Experienced prison officers are unanimously of the opinion that there are few prisoners who are without some good in them. The task of the chaplain is to find that good and develop it, and the task cannot be accomplished merely by the preaching of sermons. It may be accomplished by rendering small personal kindnesses (e.g., communication with the prisoner's wife and children) or by assisting the prisoner, through personal contact, to find employment on release, or even by advice and encouragement during his incarceration. Works, not words, make a good prison chaplain.

Your Commissioners encountered a few prison officers whose attitude towards the chaplain service was one of indifference or cynicism. We are of the opinion that such officers are not the best type to be employed in an institution that is designed for reformation. Where we found good chaplains of the true frontier missionary type, whose experience had given them a broad knowledge of human nature and human frailties, we found abundant evidence of respect, confidence, and honour on the part of the prisoners, which could not but help to assist in rebuilding their moral stability, so requisite to reformation.

Your Commissioners are of the opinion that, in Canada, at present, the great religious denominations are displaying too little interest in the prison population, both while in prison and after discharge. The Salvation Army and some organizations of the Roman Catholic Church are giving creditable and commendable service, and it is all the more regrettable that there seems to be no organized effort among the Protestant Churches to co-ordinate their services in rendering this much-needed assistance to these unfortunate members of society.

Mr. Neelands, Superintendent of Jails and Reformatories in Ontario, informed us that, for some years, he has been sending a monthly list of prisoners admitted to the reformatories to the churches of their affiliation. His motive has been to establish a point of contact between the prisoner and the church in the prisoner's locality, so that the church and its organizations might have an opportunity of taking an interest in the prisoner and assisting him eventually to become an honoured member of society. Mr. Neelands advised us that some of the Protestant Church organizations have shown no co-operation with his department and, as far as he knows, have not taken advantage of the information supplied to establish any organized method of assistance. We think the course taken by Mr. Neelands was commendable, and we trust that, in the future, some definite plan of closer co-operation may be evolved. We do not believe that, where there was a lack of co-operation, it was due to any widespread indifference on the part of the church organizations, but rather that, probably in the urgent pressure experienced by all religious institutions in these trying times, the opportunity and need have been overlooked.

Your Commissioners are of the opinion that religious services have a very definite and important place in the program of any penal system, and unreservedly endorse the following statement:

"Religion touches the deepest springs of human conduct, for it can furnish to the weak and unstable the highest ideals and the sternest inhibitions. It should therefore be awarded the first place among all forms of character training. The Chaplains and the visiting Priests, Ministers, and Rabbis will be colleagues not merely welcome, but indispensable. Allowances will be made to meet their requirements in the matter of service, class or interview. Their contribution towards the common task is not a make-weight, and men extra demanded by law or convention, but a vital service striking deep at the heart of the problem of each individual.

While the regular instruction must necessarily be a part of the Chaplain's duty, it will be very unfortunate if the lad comes to associate the profession of religion with the clergy alone. Officers of every rank should be encouraged to take an actual part in the services. The fact that they have faith, and live in accordance with their faith, may well have more influence with the lad than anything else. He does not find it easy to believe what he is told or what he reads, but he will believe what he sees.

Religion is so deep and personal a thing that no rules can compass it, and no Order of Service can entirely meet the need of the individual."¹

Chaplain services can only be performed adequately by men of devoted missionary zeal. These should be selected by co-operation with the religious bodies of Canada with a view to obtaining the most suitable men, and, where possible, they should have special training. They should

¹ Principles of the Borstal System, English Prison Commission (p. 48), Lond., 1932.

not be regarded as prison officers, nor be hampered by a multitude of petty regulations, but should be left free to meet and talk with prisoners at their will and to render kindly services without the necessity of securing permission to do so. They should not wear uniforms but, instead, be provided with a reasonable clothing allowance in lieu of the uniform at present provided.

Your Commissioners heard much difference of opinion as to whether the attendance at religious services should be compulsory or voluntary, and, after giving the matter their most careful consideration, have reached the opinion that the regulations ought not to be dogmatic on this point. If a chaplain believes that he can render the most effective service by having attendance at chapel made compulsory, there need be no objection to this. On the other hand, if a chaplain believes, as several have declared to the Commission they believe, that more is accomplished when the congregation attends voluntarily, the attendance should be voluntary. Compulsory attendance should not be thrust on a chaplain who does not believe in it.

The present rules regarding exemption from attendance at religious services should be discontinued. A prisoner who does not wish to attend religious services should not be compelled to declare himself an atheist or that "he cannot consistently with his conscientious convictions attend the services of either the Protestant or Roman Catholic Chapels." If compulsory attendance is continued, prisoners who desire exemption should be granted it without the necessity of resorting to an anti-religious declaration, and exemption, when granted, should not amount, as it does at present, to an exclusion from services. A prisoner who has been exempted, and who later wishes to resume attendance, should be allowed to do so without question.

Your Commissioners are of the opinion that the Protestant and Roman Catholic Churches should be encouraged to supply religious books and religious literature through the respective chaplains of these faiths. In several instances, chaplains complained to the Commission that church magazines were not available to the inmates unless they, themselves, had the funds to subscribe for them. The organized churches will no doubt be glad to see that this condition is corrected.

CHAPTER IX

PRISON EMPLOYMENT

CONDITIONS OF LABOUR

It is axiomatic to say that the employment of prisoners is of prime and elementary importance in the operation of any penal system. Throughout our investigations this axiom has been emphasized repeatedly. Wardens and other officers of Canadian penitentiaries have consistently deplored the lack of employment for the prisoners.

Notwithstanding the recognized importance of the employment of prisoners, your Commissioners found that in Canadian penitentiaries the number of prisoners employed on productive labour is extremely low. Because the hours of labour are short an undue proportion of the prisoners' time is spent in idleness.

Little of the employment provided in Canadian penitentiaries gives the prisoner any sense of accomplishment in the perfection of his task, or, in fact, any inducement to finish the task that is immediately before him. The result is that those who *are* employed perform their daily duties with a monotonous indifference.

During recent years, the Penitentiary Branch has afforded little co-operation or assistance to penitentiary trade instructors in the promotion of prison employment. On the other hand, a multitude of restrictive rules and petty regulations have definitely handicapped them in the performance of their duties and have made it increasingly difficult for them to accomplish any training of the prisoners.

One instructor furnished the Commission with a chart of his time. It showed that, during a fifty-five hour week, one-half hour remained for the promotion of trade training after all his other duties had been performed. Another instructor, in referring to his duties as "trade instructor," stated:

"I would say that it was something of a misnomer. The duties are spread over such a wide field that there is no trade instruction."

While this statement is to be taken with reservations, your Commissioners are convinced that, although the penitentiary regulations provide that certain officers shall be trade instructors, and although an appropriation is made from the public funds to pay their salaries as trade instructors, a very substantial proportion of their time is taken up in the performance of other duties that do not involve the instruction of prisoners in particular trades.

These remarks are equally applicable to the penitentiary farm instructors. One of them informed us that he is able to give very little time to the instruction of the prisoners in farming. Ninety-four per cent of his time is now taken up in office work. He stated:

"Everything is done on paper. You don't do things with your hands any more. Before 1932 or 1933, I could keep all my corre-

spondence in my pocket, and to-day I could show you a filing system that high. (Indicated.)

Q. Is that correspondence between you and Ottawa?

A. Yes.

Q. About what?

A. Any little matter, the smallest trifle, and previous to that if I went in and asked the warden about anything he would say, 'yes' or 'no,' or 'I will look into it.' But to-day that is not the thing to do. He would tell me to write a letter . . . and sends it to Ottawa."

A serious decline in industrial production in the penitentiaries appears to have taken place during the administration of the present Superintendent. The following comparative tables show the total revenue from production in the respective penitentiaries for the four year period prior to the appointment of the present Superintendent and the four year period following his appointment:

COMPARATIVE STATEMENT SHOWING THE REVENUE DERIVED FROM
PRODUCTION AT THE RESPECTIVE PENITENTIARIES DURING
FOUR FISCAL YEARS

MARCH 31, 1929 TO MARCH 31, 1932

| Penitentiary | Fiscal Year Ending March 31, 1929 | Fiscal Year Ending March 31, 1930 | Fiscal Year Ending March 31, 1931 | Fiscal Year Ending March 31, 1932 | Totals |
|--------------------------|---|---|---|---|------------|
| | \$ cts. | \$ cts. | \$ cts. | \$ cts. | \$ cts. |
| Kingston..... | 90,723 99 | 102,250 62 | 100,094 45 | 82,606 23 | 375,675 29 |
| St. Vincent de Paul..... | 28,982 24 | 20,766 02 | 29,557 55 | 32,825 62 | 112,131 43 |
| Dorchester..... | 20,711 08 | 22,081 16 | 18,647 65 | 20,763 46 | 82,203 35 |
| Manitoba..... | 18,935 52 | 19,249 31 | 19,419 67 | 16,010 59 | 73,615 09 |
| Alberta..... | 4,088 15 | 2,442 25 | | | 6,530 40 |
| British Columbia..... | 7,685 80 | 7,650 44 | 10,296 25 | 10,616 60 | 36,249 09 |
| Saskatchewan..... | 15,096 01 | 12,183 52 | 12,121 81 | 10,341 20 | 49,742 54 |
| Collin's Bay..... | | | 141 82 | 2,327 96 | 2,469 78 |
| Totals..... | 186,222 79 | 186,623 32 | 190,279 20 | 175,491 66 | 738,616 97 |

COMPARATIVE STATEMENT SHOWING THE REVENUE DERIVED FROM
PRODUCTION AT THE RESPECTIVE PENITENTIARIES DURING
FOUR FISCAL YEARS

MARCH 31, 1932 TO MARCH 31, 1936

| Penitentiary | Fiscal Year Ending March 31, 1933 | Fiscal Year Ending March 31, 1934 | Fiscal Year Ending March 31, 1935 | Fiscal Year Ending March 31, 1936 | Totals |
|--------------------------|---|---|---|---|------------|
| | \$ cts. | \$ cts. | \$ cts. | \$ cts. | \$ cts. |
| Kingston..... | 50,176 89 | 34,768 41 | 30,028 72 | 22,606 83 | 137,580 85 |
| St. Vincent de Paul..... | 21,250 65 | 19,124 96 | 18,008 84 | 22,237 76 | 80,622 21 |
| Dorchester..... | 19,073 27 | 19,569 61 | 9,848 08 | 7,763 75 | 56,254 71 |
| Manitoba..... | 15,368 32 | 14,515 65 | 11,955 63 | 10,611 76 | 52,451 36 |
| Alberta..... | | | | | |
| British Columbia..... | 7,782 80 | 7,173 47 | 3,449 51 | 2,549 60 | 20,955 38 |
| Saskatchewan..... | 9,907 03 | 4,672 88 | 1,613 11 | 452 19 | 16,645 21 |
| Collin's Bay..... | 3,070 73 | 1,309 76 | 961 21 | 1,460 80 | 6,802 50 |
| Totals..... | 126,629 69 | 101,134 74 | 75,865 10 | 67,682 69 | 371,312 22 |

SUMMARY

SHOWING REDUCTION IN REVENUE DERIVED FROM THE RESPECTIVE
PENITENTIARIES FOR THE TWO FOUR YEAR PERIODSFISCAL YEARS ENDING MARCH 31, 1929¹ TO MARCH 31, 1932 AND FISCAL YEARS ENDING
MARCH 31, 1933 TO MARCH 31, 1936

| Penitentiary | Total for Four Year Period Ending March 31, 1929 to March 31, 1932 | Total for Four Year Period Ending March 31, 1933 to March 31, 1936 | Reduction |
|--------------------------|---|---|------------------|
| | \$ cts. | \$ cts. | |
| Kingston..... | 375,675 29 | 137,580 85 | 238,094 44 |
| St. Vincent de Paul..... | 112,131 43 | 80,622 21 | 31,509 22 |
| Dorchester..... | 82,203 35 | 56,254 71 | 25,948 64 |
| Manitoba..... | 73,615 09 | 52,451 36 | 21,163 73 |
| Alberta..... | (²) 6,530 40 | | |
| British Columbia..... | 36,249 09 | 20,955 38 | 15,293 71 |
| Saskatchewan..... | 449,742 54 | 16,645 21 | 33,097 33 |
| Collin's Bay..... | (¹) 2,469 78 | 6,802 50 | 4,332 72 |
| | | | (³) |
| Totals..... | 738,616 97 | 371,312 22 | 367,304 75 |

In the two four year periods compared a reduction of \$367,304.75.

(¹) This penitentiary operated from 1931 only.(²) This penitentiary operated only until 1930.(³) Surplus.

We have surveyed the revenue derived from production in the penitentiaries for the years 1919 to 1936, inclusive, and we find that this revenue for the year 1936 was, not only the lowest point throughout the whole period, but less than half the amount received in any one year between 1919 and 1932.

Since 1932, an aggressive, costly, and, in many cases, needless, program of construction has been pushed forward without any considered plan. This has been done with a view to providing employment for the prisoners. At the same time, however, the revenue from productive labour has been cut in half, with the result that there has been a corresponding loss of useful employment for the prisoners.

The haphazard manner in which construction has been conducted and the lack of any definite or co-ordinated planning of such construction have made it both unsatisfactory and expensive. Prisoners and staff alike recognize evidence of incompetence in this, and it creates disrespect for the whole administration.

The problem of providing prison employment is not an easy one to solve, and it is particularly difficult in prisons where the sentences are of short duration. This major difficulty is not present in Canadian penitentiaries because the minimum sentence to be served in them is a period of two years. No matter how difficult the problem may be, it is imperative that it should be solved. Idleness in Canadian prisons cannot be tolerated. It is destructive to the physical and moral fabric of the prisoners, and it renders ineffective any provision for their reformation.

In determining the principles to be applied in making provisions for employment in the penitentiaries, your Commissioners unreservedly endorse the views expressed by the Committee appointed by the Home Secretary of Great Britain in 1932,

“To review the methods of employing prisoners and of assisting them to find employment on discharge, and to report what improvements are desirable and practicable.”

The report reads in part as follows:

“Principles of Employment

128. As regards the principles which should underlie all prison employment we cannot do better than quote the late Chairman of Prison Commission (Mr. A. Maxwell): ‘Prisoners should be usefully employed and the choice of employment should not be limited by the old ‘hard labour’ conception, i.e., the conception that prison labour should have an intentionally punitive character. Useful occupations should not be excluded from consideration merely because they are irksome—but irksomeness should not be regarded as a desirable characteristic of prison occupations. If work is treated as a form of punishment, the inevitable consequence is that as little as possible will be done and interest and effort will be discouraged. The spirit in which work is regarded both by the prison officer and by the prisoner is more important than the nature of the work. However laborious or disagreeable a task may be, if the worker feels that he has been set to do it because its accomplishment serves a useful purpose and performs it in a spirit of stoicism or service, he will profit from the experience. On the other hand, if the prisoner feels that the task is of an artificial character invented by the Prison Authorities either for the purpose of punishing him or merely for the purpose of keeping him occupied, he will perform it in a resentful or in a listless spirit, and the effect both on his character and on his usefulness as an industrial worker will be bad.’

With this view we are in agreement. Continuous and useful employment must be regarded not as a punishment but as an instrument of discipline and reformation. In order that this idea may be achieved, the first requirement is that useful and suitable work should be provided *and that there should be plenty of it.*

If work has to be spun out or invented much of its value is lost. It serves to inculcate bad habits in Instructors and prisoners and it cannot be made economic.”

The employment available in prisons may be divided into the following classes:

1. Service, i.e., cooking, laundry, barbering, library;
2. Maintenance, i.e., cleaning, heating, repairing, etc.;
3. Necessary construction;
4. Production of penitentiary requirements, i.e., uniforms, shoes, furniture, discharge clothes, farm produce, etc.;

5. Production of goods in excess of penitentiary requirements for use outside the prison system.

The first two of the above classes are of a more or less constant quantity and require little discussion. The third class is extremely variable and should only be undertaken or promoted (and then always in an orderly manner) to meet the requirements of the penitentiary system—not merely for the purpose of providing employment. The fifth class is the most difficult, and the most necessary, because the administration must depend upon it to provide the bulk of useful employment and a means of training the prisoners in industrial habits that will equip them to earn a living after they leave the prison. It is only necessary for us to mention the first, second, and third classes. The fourth and fifth classes require more careful consideration.

INDUSTRIAL EMPLOYMENT

Shops

One of the basic difficulties involved in the development of industrial employment in prisons is the objection to competition with outside labour. This difficulty arises in the production of goods for use within the penitentiary service as well as those for use outside it.

If, for example, prisoners are engaged in making prison uniforms, they are producing articles that would otherwise have to be bought in the open market, and to that degree they are competing with outside labour. It has never been suggested to us, however, that, in so far as it is economically possible, there is any objection to the production of prison requirements by prison labour.

Articles which may be produced for use outside the prison service may be divided into two classes:

- (a) Industrial products;
- (b) Farm products.

The operation of prison farms and the disposition of surplus farm products are dealt with in another part of this chapter.

The disposition of the industrial products of prison labour has been the subject of extensive study, both in Canada and other countries. Two main systems prevail in different parts of the world:

- (a) Prison labour is confined to production for state use;
- (b) Prison labour is employed in the production of merchandise for sale in the open market.

This merchandise may either be produced for sale by the state or it may be produced by private contract entered into between the state and the contractor who undertakes to pay an agreed sum of money in return for the use of prison labour. These contracts may have a wide variation in terms. The contractor may, or may not, agree to supply machinery and supervisors who act as instructors. The terms of the contract in some cases provide for payment of wages, a substantial portion of which,

after a deduction has been made for maintenance, goes to the prisoners. The prisoner may be paid, either according to a per diem rate, or by piece work.

The following is a summary of the different systems in use in the various countries visited by members of the Commission:

Great Britain

All products of the industries in British prisons are consumed either within the prison system or by other government agencies. Supplies are manufactured for the Navy, the Army, and the Royal Air Force. These include woven goods, uniforms, mail bags, tin boxes, petrol cans, furniture, etc.

Following the recommendations of the 1933 report on prison employment,¹ a special effort was made to increase the purchases made by government agencies from the prisons. This effort resulted in increasing them, in 1935, by forty-two per cent over the previous year.

Belgium

A central committee of the prison administration is charged with duty of securing orders from the various departments of the Government for articles which can be produced in the prisons. This committee buys and supplies the raw materials. If orders cannot be secured from the departments of the Government for sufficient articles to keep the prisoners employed in their production, contracts are entered into with private firms whereby the firms have the right to supply material and instructors. These firms pay an agreed sum for the use of prison labour. The types of articles produced under such contracts are, as far as possible, those which would not come into competition with private industry in Belgium. In the prisons where the confinement is entirely cellular, the industries must necessarily be of such a character as can be carried on within the cells, such as the manufacture of fishing tackle, shoes, printing, etc.

Holland

The administration of prison industries in Holland is similar to that in Belgium, with the exception that production is confined to supplying departments of the Government. Only one prison has shops where the prisoners work in association.

Germany

Production for state use and by contract labour exist side by side. The preference is given to production for state use.

France

Production for state use is carried out on a very broad scale, consisting of the production of clothing, boots, printing, book binding, stationery, office furniture, etc. A certain type of contract work is still permitted, but this is being gradually reduced.

¹ Report of the Departmental Committee on the Employment of Prisoners, Part I, Employment of Prisoners, Lond., 1933.

United States of America

The methods of production in the United States of America vary between the federal system and those of the respective states. Some states still produce articles for sale in the open market. This, however, is the exception rather than the rule.

The most ambitious and successful prison industry that has been drawn to the attention of your Commission is the state manufacture of binder twine in the Minnesota State Prison. This prison, with a population of less than 1,500 inmates in the year 1935-36, produced in the prison factory, and sold, binder twine to the value of \$1,797,654.42. Since 1901, the total sales have amounted to over \$67,000,000.

Industries in penal institutions under federal jurisdiction are operated by "Federal Prison Industries, Inc.," a corporation authorized by an Act of Congress, "For the purpose of providing useful and stimulating employment to the inmates of federal penal institutions in such diversified forms as will reduce to a minimum competition with private industry and free labour." The products of industries operated by this corporation are furnished to government agencies exclusively. The following is a list of the industries operated:

At the Atlanta Penitentiary

1. Cotton Textile Mill
2. Clothing Factory
3. Canvas Goods Shop
4. Mattress Factory

At Leavenworth Kansas Penitentiary

5. Shoe Factory
6. Broom Factory
7. Brush Factory
8. Clothing Factory
9. Furniture Factory

At the Northeastern Penitentiary, Lewisburg, Pa.

10. Clothing Factory
11. Metal Furniture Factory

At the United States Federal Jail, New Orleans, La.

12. Rubber Mat Factory

At the United States Industrial Reformatory, Chillicothe, Ohio

13. Foundry

At the Federal Industrial Institution for Women, Alderson, West Va.

14. Cotton Garment Factory

At the United States Southwestern Reformatory, El Reno, Okla.

15. Brooms
16. Homespun Woollens

At the Alcatraz Island Penitentiary, California

17. Clothing
18. Rubber Mats
19. Laundry

The catalogue of products issued by the Federal Prison Industries, Inc., contains forty-seven pages and shows a wide range of products, including brooms, brushes, canvas goods, mattress covers, tarpaulins, tents, castings, clothes, uniforms, overcoats, suits, overalls, pyjamas, cotton textiles, furniture, filing cabinets, shoes (including army and navy shoes), and wood furniture. An Act of Congress, passed in May, 1930, makes it mandatory for all government agencies to secure all available requirements from the prison industries.

In Canada, the subject of prison industries and prison employment has repeatedly been under consideration. The 1913 Commission made the following recommendations:

"Industrial Employment"

(8) That what is known as the State-use or Public-use system of prison labour be adopted throughout the penitentiaries and that industries be established to supply the requirements of the Government, its institutions and services, with all goods that can be made in prison.

(9) That outside labour be developed to the fullest possible extent at each prison, in farming operations and, where raw material can be conveniently obtained, in quarrying stone, making brick, etc."

We interpret the words "public-use system" to mean the same thing as "state-use."

The 1920 Committee made the following recommendations:

"The Committee, therefore, most emphatically recommends statutory provision to provide productive labour for all convicts. Such provision need not extend to any work except for what is known as "state use" and can, in Canada, not extend any compulsion beyond the federal service, but the evidence taken by the Committee has satisfied it that manufactures within this limitation will afford much more than ample scope for all the industry and activity which the penitentiaries can put forth. The provision might be in the following term:—

65A. The public money of Canada shall not be expended in the purchase of any goods which can conveniently be manufactured or produced at a penitentiary and delivered where they are required for the public service with economy to Canada, having regard to the provisions of subsection 2 of this section and to the provisions of this Act on the subject of the remuneration of convicts for their labour.

(2) No charge shall be made by the Department of Justice (Penitentiary Branch) against any department of the Government

of Canada for the labour of any convicts or penitentiary officers entering into the manufacture or production of any goods in the penitentiaries."

Mr. P. M. Draper, president of the Trades and Labour Congress of Canada, was a member of the 1920 Committee, and, on request, appeared before your Commission. In his evidence he stated that, while conditions have changed in Canada since that report was written, he emphatically agreed that prisoners should be kept employed in productive labour, and that we were on safe ground so long as the merchandise produced is kept out of the open market.

The Committee¹ appointed by the Home Secretary of Great Britain in 1932 made the following recommendations:

"(1) The root of all evil in the employment of prisoners is the definite shortage of work. Occupation for prisoners is essential to their physical and moral needs. More work, preferably requiring no considerable skill in actual performance, must be obtained; it may with advantage be work which is physically hard. (Paras. 122, 128, 149.)

(3) A definite policy regarding prison industries must be formulated and carried out, including a continuance of the policy of segregating suitable types of prisoners in selected prisons, and the allocation to those prisons of suitable industries. (Paras. 151-153, 202.)

(4) The organization and layout of prison workshops should be overhauled and modernized. (Paras. 150-152, 173, 174, 202.)

(6) Speed and efficiency of work in prison workshops must be improved in order to guard against deterioration of the physical and moral power of instructors and prisoners. More, and better qualified, instructors are needed. Industrial Managers should be appointed at the larger prisons. A system of payment to prisoners who reach a minimum output of adequate quality should be introduced. Rate fixing, both as regards quantitative output and rate of payment, should be done scientifically. A measure of psychological training should be given to selected Borstal Housemasters. (Paras. 130, 167, 169-172, 178-188, 200).

(7) The machinery for seeking manufacturing orders from Government Departments, Local Authorities and other sources, and for the purchase of materials must be improved. (Paras. 132-140.)

(9) An additional Commissioner should be appointed to the Prison Commission, England and Wales, charged specially with the duty of reorganizing and supervising prison industries in England and Wales. He should also act as adviser to the Scottish Prison Department. (Paras. 189-193.)

(10) Governors should take a greater interest in industrial work. (Para. 194.)"

¹Departmental Committee on Employment of Prisoners. (See "Part I, Employment of Prisoners," previously referred to.)

The Prison Administration of the province of Ontario has attained a considerable degree of success in industrial production in the reformatories. The Guelph Reformatory is an institution with a capacity for 700 prisoners serving terms of from three months to two years. Some prisoners serving indeterminate sentences may serve the full period of four years less two days. The average daily population between the years 1931 and 1937 was as follows:

| 1931 | 1932 | 1933 | 1934 | 1935 | 1936 |
|------|------|------|------|------|------|
| 768 | 874 | 756 | 606 | 601 | 568 |

The following is a table showing total revenue at this prison during this period:

| | |
|--|--------------|
| Year ending October 31, 1931 | \$627,775 25 |
| " " " " 1932 | 521,929 82 |
| " " " " 1933 | 490,664 59 |
| " " " " 1934 | 527,232 05 |
| ¹ Five months ending March 31, 1935 | 170,199 13 |
| Year ending March 31, 1936 | 467,844 57 |
| " " " " 1937 | 459,279 96 |

The return made for the period of five months was in consequence of a change in the date of the fiscal year.

The products of these prison industries were all supplied for consumption in provincial institutions, and do not include any charge for prison labour.

A comparison of this statement with the total revenue in Canadian penitentiaries, which have an approximate population from 3,500 to 5,000, (and where a charge for labour, now amounting to \$1.50 per day, or 15 cents per hour, for custom work and other industrial productions, with the exception of mail bags, is included in the statistical figures) emphasizes the need for a more efficient administration in the operation of industries in Canadian penitentiaries.

A successful industry has been built up in the Bordeaux Jail, in Montreal, in the manufacture of aluminum hollow-ware for use in that institution and in other institutions in the province. This is an industry that is well adapted to prison conditions.

We recommend that; (a) a complete survey be instituted to determine what requirements of the various government departments can be supplied by properly equipped prison industries; (b) the penitentiary shops be equipped with the necessary machinery to produce such merchandise as will give ample productive employment to all the employable prisoners; (c) the trade instructors be relieved of all custodial duties so that they may devote their whole time to carrying out their instructional duties; (d) only such trade instructors be engaged as are equipped by training and experience to teach trades.

Garage

At several penitentiaries, complaints were made to your Commission with regard to the ruling of the Penitentiary Branch forbidding officers

to have their automobiles repaired in a penitentiary garage. This, of course, removed much of the opportunity for teaching automobile mechanics to the inmates. Up to this time, in addition to repairs on cars belonging to the penitentiary, it had been the custom for officers to have their private motor cars repaired in the penitentiary garage upon payment of the cost of the parts and the usual charge made for prison labour.

Your Commissioners are of the opinion that, if the officers are willing to risk having their automobiles repaired by inmate labour in the penitentiary garage, it would provide additional work for the inmates and enable the instructor to qualify some as expert garage mechanics.

Use of Waste Materials for Demonstration

The instructional staff and many of the inmates complained to the Commission that they were not allowed to use waste materials for experimental purposes. Several practical suggestions were offered to the Commission as to how instructional work might be carried on through the demonstrational use of waste materials. Until December, 1933, it had been the practice to use such materials for this purpose, but, on the 5th of December, 1933, circular 217 was issued forbidding the use of governmental materials without authority from Ottawa. The interpretation completely restricted the use of any material except for specific works that had been expressly authorized.

FARM EMPLOYMENT

The principle of providing employment on prison farms was adopted in Canada before Confederation. Each penitentiary in Canada, except the Women's Prison, has a farm connected with it. From evidence taken your Commissioners are of the opinion that these farms are inefficiently operated and that there is no one connected with the Penitentiary Branch who has the required experience properly to direct the operation of seven farms which have a total acreage of 6,049 acres, 3,127 of which are at present under cultivation. We do not consider that the operation of the penitentiary farms compares favourably with the farms operated in connection with the provincial jails and reformatories. The following table illustrates the comparative value of the production of the penitentiaries and provincial prison farms, respectively, for the year ending March 31, 1936:

COMPARATIVE STATEMENT OF FARM PRODUCTION

YEAR ENDING MARCH 31, 1936

| Penitentiary or Reformatory | Average Population | Total Acreage | Farm Acreage in Actual Cultivation | Value of Farm Production |
|---------------------------------------|--------------------|---------------|------------------------------------|----------------------------|
| | | | | \$ cts. |
| PENITENTIARY FARMS | | | | |
| Dorchester..... | 370 | 1,191 | 532 | (¹) 15,565 34 |
| St. Vincent de Paul..... | 936 | 725 | 593 | 11,721 99 |
| Kingston..... | 737 | 365 | 115 | 12,214 65 |
| Collin's Bay..... | 189 | 876 | 350 | 3,527 35 |
| Manitoba..... | 288 | 1,095 | 680 | (¹) 6,344 16 |
| Saskatchewan..... | 349 | 1,668 | 828 | (¹) 13,357 71 |
| British Columbia..... | 279 | 129 | 29 | (¹) 5,501 00 |
| PROVINCIAL PRISON FARMS | | | | |
| Guelph Reformatory..... | 568 | 945 | 614 | 35,055 78 |
| Mimico Reformatory..... | 130 | 208 | 125 | 13,653 63 |
| Burwash Industrial Farm..... | 461 | 35,000 | 845 | 70,145 63 |
| Langstaff Municipal Jail Farm..... | 270 | 940 | 825 | 27,253 34 |
| Headingley Jail Prison Farm..... | 345 | 560 | 500 | 8,382 24 |
| Prison Farm at Fort Saskatchewan..... | 220 | 1,406 | 1,144 | 15,066 36 |
| Provincial Jail at Lethbridge..... | 133 | 1,141 | 625 | 18,342 89 |
| Provincial Jail at Prince Albert..... | 179 | 1,200 | ..... | 5,193 09 |
| Provincial Jail at Regina..... | ..... | 940 | ..... | 5,248 81 |
| Oakalla Prison Farm..... | 419 | 185½ | 103 | 5,909 80 |

(¹) Figures furnished by Penitentiary Branch. These are higher than figures furnished by farm experts who reported on St. Vincent de Paul, Kingston, and Collin's Bay.

Early in the sittings of the Commission, we were convinced that the subject of the operation of the penitentiary farms required expert study and, through the co-operation of the Minister of Agriculture, the Commission secured the services of Dr. E. S. Hopkins and G. W. Muir, of the Experimental Farms Branch at Ottawa, to make a survey of the farms operated in connection with the penitentiaries at Kingston, Collin's Bay, and St. Vincent de Paul.¹

Through the courtesy of the Department of Agriculture of the province of Saskatchewan, the Commission secured the services of C. M. Learmouth, Superintendent of Institutional Farms of the province of Saskatchewan, to undertake a similar task in respect to the Saskatchewan Penitentiary farm.

The reports made by these experts on the four farms in question have convinced your Commissioners that a heavy annual loss is incurred through the lack of proper management of the farms owned and operated as part of the penitentiary system. In our opinion, this is mainly due to two causes:

- (a) Lack of a qualified official in the Penitentiary Branch at Ottawa to supervise the operation of these farms;
- (b) Vexatious and needless regulations restricting the warden's authority, and particularly in regard to the selection of the prisoners who may be permitted to work outside the walls of the penitentiary.

¹ See Appendix II.

In regard to the former, it is evident that large-scale farming operations cannot successfully be directed by those who have no experience of farming. In regard to the latter, successful operation of the farms will depend in the future on intelligent co-operation and assistance from the Penitentiary Branch, instead of the restrictive measures heretofore enforced. The regulation limiting the warden's discretion in permitting prisoners who are serving sentences for certain types of crime to work outside the walls is unnecessarily restrictive. The wardens should be able to judge, from the character of the prisoner, the length of the term he has yet to serve, and the manner in which he has conducted himself in the prison in the past, whether he is a suitable prisoner for farm work. He is in a much better position to make this decision than any one at the Penitentiary Branch. This regulation has been referred to elsewhere in this report and requires no further comment here.

Your Commissioners recommend that the following principles in respect to the operation of the penitentiary farms be adopted:

1. In view of the fact that there are seven large farms operated by the Penitentiary Branch throughout Canada, a highly qualified official should be required to devote his entire time to the management of this important part of the penitentiary service.

If this recommendation is adopted, we are convinced that the expense incurred will be more than justified by greater efficiency in production. To this will be added the incidental advantage of the increased employment that will be afforded the prisoners.

2. A survey should be made of each farm, showing the elevations in contour, form and location, size, and per cent grade of a proper system of surface and tile underdrainage. This system of drainage could be installed throughout a period of years as time permits. It would increase the crop yields, improve the value of the land, and would reclaim some of the areas now regarded as waste land.
3. Future appointments to the position of farm instructor should be made only of men who are graduates of an agricultural college and have sufficient practical experience to qualify them as farm instructors.
4. A study should be made of the possibility of establishing a canning factory at one or more penitentiaries. Peas, beans, corn, rhubarb, tomatoes, and certain fruits should be canned and the surplus product shipped to other penitentiaries. Guelph Reformatory has successfully carried out this policy for years.
5. Suitable buildings, of sufficient size to store the potatoes and other vegetables, should be constructed on the farms. This would greatly reduce the loss suffered in storage.
6. Dairy herds should be established at all penitentiaries for the purpose of supplying their dairy requirements.

7. All vegetables required in the penitentiary service should be produced on the penitentiary farms. Where the production on any one farm is in excess of the requirements of that penitentiary, provision should be made to supply other penitentiaries within reasonable distance with their requirements of these products. Where the products are in excess of the penitentiary requirements, or are unsuitable for consumption within the penitentiary service, they should be sold on the open market.¹
8. Custodial officers employed on the farms should, as far as possible, be men with previous experience in agriculture.

PRISON PAY

The problem of pay for prisoners is as difficult as that of prison employment, but its difficulty does not diminish its importance. The Gladstone Committee expressed the opinion that:

“He (the prisoner) should be enabled to earn something continuously during his sentence, provided that the money is not all given to him on discharge, but subsequently through a prisoners’ aid society, or in such way as the prisoners’ aid society or the visiting justices may determine.”

If it is accepted that training in industry is a fundamental principle in a good prison system, it is essential that the prisoner should be taught to apply himself industriously to the tasks provided for him. It is simple to punish a prisoner for definite idleness, but the indolent and indifferent performance of duties assigned to him is almost as destructive of the prisoner’s moral fibre, and more difficult to deal with by disciplinary measures. It is necessary, therefore, to find some other expedient than punishment to encourage and promote industrious habits.

The system of giving marks for industry and good conduct, to be taken into consideration in granting a remission of the sentence, is designed to encourage industry, but it is not a general panacea, and some form of pay is desirable as an encouragement to the prisoners. It has, in addition, a distinct reformatory influence. It enables the prisoner to provide himself with some small comforts during his imprisonment, and to have a modest sum of money at his disposal upon liberation.

Pay for prisoners was recommended by the 1913 Commission. In their report, the Commissioners stated:

“An incentive to labour and good conduct is invaluable. Men work with much more heart when they know they will be sharers, even to a small degree, in the product of the labour. In fact, their increased output, under such a stimulus, it has been shown goes a long way toward covering the wages fund.”

They have placed their recommendation for payment of prisoners on the basis of charity rather than administration because of the lack of

¹ Having regard to the export markets for the agricultural products of Canada and the small quantity that may be produced on 6,049 acres as compared with the total agricultural acreage of Canada, we are of the opinion that no valid objection can be raised to this suggestion.

productive industry in the penitentiaries. The 1920 Committee not only recommended the payment of prisoners, but suggested regulations providing for classification of all employment in the penitentiaries into five grades,

"According to the results of an intensive study of the degree of actual capacity and physical dexterity which every employment involves and that convicts who show a greater or smaller capacity for industry than the average, of the class to which they are regularly assigned, should be promoted or demoted accordingly."

An example of what the Committee had in mind is set out in the report, as follows:

"A stupid man without manual dexterity might be fit for no better employment than the scrubbing of floors or the cleaning of brass; he would be in Class 3. At the other extreme a man of high type employed at a machine the control of which called for good brains and high manual dexterity would be in Class 7. When at the end of the quarter the convicts' share of the total value of their labour was ascertained, the reward of the first man would be to that of the second as 3 is to 7 or, if the first man's reward was, e.g., \$15, that of the second would be \$35.

The difficulties of such a system are obvious. Quite apart from the multitude of charges of favouritism that would arise among the prisoners, is the more formidable objection of its manifest injustice. Reward is based on the ability of the prisoner, rather than on his application and industry. The stupid man who enters the penitentiary should not be punished for his stupidity by being compelled to pass through prison earning a lower rate of pay than the dexterous and clever criminal who may have learned his dexterity by means of oft-repeated instruction and experience in prison industries.

The basis of payment for prisoners was considered by the British Departmental Committee on the Employment of Prisoners, in 1932. Their recommendations are summed up in the following paragraphs of their report:

"But whatever method may be adopted it is essential that payment should not become automatic and that it should be rigidly based either on actual measurement of output or on a careful assessment of the prisoners' activity. It should only be made if a minimum standard of performance has been reached. Any case of failure to reach the standard output should be brought to the notice of the Governor.

In any such scheme we think it is essential to have an unpaid party, the members of which receive no payment and can only obtain payment when by industry and conduct they have shown themselves fit for promotion to a paid party. Relegation to the party would form a useful form of punishment for the idle and ill-conducted.

The moral effect of such a system of measurement or assessment of work on prisoners and instructors alike would, we are convinced, be of the greatest importance and the establishment of the system would also have the added advantage of enabling comparisons to be made between the work and efficiency of different prisons, a comparison which should be a useful lever in bringing the less efficient establishments up to the level of the more efficient."

In December, 1934, the principle of pay for prisoners was adopted in Canada by a circular issued by the Superintendent of Penitentiaries, which announced that, from January 1, 1935, prisoners would be awarded pay at the rate of five cents for each day on which they worked. The allowance of pay is dependent on satisfactory conduct and diligence, and it is not given during time that the prisoner is undergoing the punishment of deprivation of privileges because of offences against the regulations. The prisoner is not paid during any time he spends in the hospital, nor is he permitted by extra diligence to earn more than the sum of five cents per day.

The following is a summary of the rules issued by the Superintendent on this subject:

1. A prisoner is allowed pay for each day of remission earned, and something to his credit at the date of his release over and above seventy-two days;
2. A prisoner having more than \$50 to his credit is permitted, on the recommendation of the warden and with the approval of the Superintendent, to divert the amount in excess of \$50 to his dependent next of kin;
3. One-half of the remuneration allowed for any one day, plus the whole of the remuneration allowance for the days of remission earned, must remain to the credit of a prisoner until his release, except any sum authorized to his next of kin;
4. A prisoner is permitted one package of tobacco and cigarette papers, or the equivalent, per week, which may be charged against the one-half of the remuneration which is not under the above restriction;
5. The Minister of Justice has power to order the forfeiture of all remuneration standing to the credit of the prisoner;
6. A prisoner who has \$10 or more standing to his credit is not entitled to be furnished with any sum of money as provided by section 72, subsection 6, of the Penitentiary Act;
7. If a prisoner does not smoke or use tobacco, he is not permitted to purchase sweets instead of tobacco, but he is permitted to divert any balance there might be in, what might be called, the spendable half of his remuneration to purchase magazines or books. These, however, become the property of the penitentiary after the prisoner has finished with them.

While this system of pay for prisoners is only in its experimental stages, it is evident that, in a measure, it has been successful. Its weakness is that the amount of pay is not measured by the industry of the prisoner.

The following is a brief summary of the different systems prevailing in regard to the payment of prisoners in the different countries visited by the members of your Commission:

Great Britain

For a number of years the British Prison Commission has been experimenting in different prisons with the subject of pay for prisoners. No uniform system has been adopted. The Prison Commissioners, in their annual report for 1929, state:

“To devise a system of payments whereby the sums paid shall be accurately adjusted to the work done by the prisoner is by no means easy. Much of the work done in prisons does not lend itself to measurement, and the proper measurement of other work requires a large expenditure of time and clerical labour, while any system which resulted in the automatic award of a weekly payment to every prisoner who had done a passable week's work would be no improvement on the existing situation.”

Since this was written, the matter has been investigated by the Committee of 1932, and other experiments have been tried. At Maidstone prison, the following “Earning Scheme” is in effect:

This scheme was introduced in April, 1935, and has proved beneficial both as a stimulus to industry and as an aid to discipline. Earnings may be expended on the purchase of tobacco or sweets, or may be “banked” with the steward.

Three parties at present, viz., tailors, carpenters and tinsmiths, work on a piece rate basis. Each prisoner has to show a minimum of forty hours per week output for which he is paid 3d. Time gained over and above this minimum is paid at the rate of $\frac{1}{2}$ d. per hour. Maximum wage is limited to 1/-.

The remaining parties are paid at flat rates, each party being subdivided into three grades varying from 3d. to 7d.

All men receiving wages pay 1d. each week into a common fund, which is utilized at the governor's discretion for expenditure calculated to benefit the earners.

No man is placed on the earning stage until he has completed nine months of his sentence and has been recommended by his party officer and approved by a special board presided over by the governor.

The Home Secretary for Great Britain has recently announced that, at Wakefield Prison, a system of paying wages according to work done has been introduced and that this has resulted in the output being increased. These experiments are continuing, and are being extended.

Belgium

Wages for prisoners vary in the different institutions. They average from one to three and a half cents per hour, depending on the work and the classification of the inmate as to his industrial ability. From this "peculium" the state retains a proportion, varying with the nature of the sentence:

- (a) Jail Sentence
- (b) Preventive Detention
- (c) Hard Labour

The remainder, or "residuum," is divided into two equal parts, and the prisoner is permitted to spend one-half of this in the canteen, or send a portion of it to his family.

The food furnished to the prisoner is not as plentiful as that provided in Canadian penitentiaries, and a considerable stimulus is thus provided by the privilege of making purchases from the canteen.

Holland

The system of paying prisoners in Holland is similar to that in force in Belgium. They are permitted to earn the equivalent of from four to sixteen Canadian cents per day, one-half of which may be spent in the canteen, while the remainder is retained to provide for the prisoner on his discharge. This restriction does not apply to life prisoners, who are permitted to spend the whole of their earnings in the canteen or to send them out to their relatives.

France

Prisoners are paid on a per diem basis. The pay is at piece work rates, and is worked out on an involved basis of classification and sentence. Some prisoners earn quite a high rate of pay, but charges are made against earnings for their maintenance.

Germany

The prisoner is credited with remuneration for his work, graduated according to diligence, skill, and the amount of work. The sum granted as remuneration amounts to between one-fifth and one-quarter of the yield of the prisoner's work. Part of the remuneration may be used by the prisoner for obtaining additional food stuffs, books, magazines, and other articles for his use during leisure hours, or for the support of his relatives. As a rule, the other part is kept intact until the prisoner's release, when it is paid to him or remitted, in whole or in part, to an official body or welfare association. Sometimes it may be remitted to an individual (helper or supervisor) for gradual payment to the prisoner, or to relations who are entitled to his support.

United States of America

In the federal prison system some prisoners are paid and some are not. Those engaged in industry receive remuneration. Preference in

assignment to industry is given to the prisoners who have needy families, and the major part of their earnings must be sent to relieve distress at home.

The principles applied to the payment of inmates of the state prisons vary according to the various states of the Union. It is unnecessary for the purpose of this report to go into the details of these principles.

It will be observed that, in all countries visited by your Commission, an attempt has been made to measure the tasks and the rewards according to the prisoner's application to his work, thus producing "a positive stimulus to exertion," rather than the mere "negative check on idleness" as provided by the Canadian system. In the prisons visited by your Commission in other countries, the prisoners appeared to be applying themselves with a diligence comparable to that to be found in ordinary factories. On the other hand, in the Canadian institutions the tedium and evident lethargy of the prisoners appeared to produce a pronounced atmosphere of idle indifference throughout the shops.

Your Commissioners recommend that:

- (a) The pay now provided for the prisoners should form a basis for future experiments based on the experience of other countries;
- (b) These experiments should be directed to give greater reward for industry, and this should be measured more by application and diligence than by volume of production. A prisoner who has become highly skilled in prison industry by frequent imprisonment ought not to have the opportunity of earning more remuneration than the novice in crime whose previous training may have been inadequate or of a different character;
- (c) Every precaution should be taken to safeguard the prisoners against favouritism or special assignments which would give one prisoner an advantage over another.

CHAPTER X

WOMEN PRISONERS

Fortunately, the problem of female delinquency is not as serious in Canada as in some other countries. However, the fundamental principles of reformation apply equally to both sexes, and, therefore, the principles of classification, training, and education for men prisoners recommended in other chapters should be applied as far as possible to women. It might be noted, however, that, when the sick have been deducted, the number of trainable women is very small, and the women prisoners apart from young prisoners who are capable of deriving benefit from continued education would constitute a small class. Some classification is essential, however, to prevent contamination.

The provincial jails and reformatories for women visited by your Commissioners are, with a few exceptions, well built, and very well kept, and they provide accommodation for many more inmates than the number actually confined in them.

All the women in Canada sentenced for more than two years are confined in the Women's Prison at Kingston. Another chapter of this report, devoted to the Women's Prison, recommends that the women confined there should be removed to other institutions. If this were to be done, the present building would be available for other purposes.

Your Commissioners believe that it is especially important to avoid committing girls to institutions except in extreme cases, and that the policy of probation, as recommended for men, should be applied even more generally to female offenders.

With reference to female offenders, the report of the Young Offenders Committee in England¹ emphasizes this principle in the following words:

"Both in the public interest and the welfare of the young offender concerned, it appears to us to be the duty of the legislature and of the courts to see that so far, at any rate, as persons under twenty-one are concerned, imprisonment is abandoned as far as practicable and is only used when no other means can suitably be applied."

The development of girls' clubs should be encouraged to the utmost, and they should be subsidized by the state as well as by private contributions. A thorough study of the influence of environment on female delinquents and the importance of their mental, physical, and psychological make-up in causing their criminal conduct should be made as early as possible, and at the first sign of delinquency.

¹ Report of the Departmental Committee on the treatment of Young Offenders, Lond., 1927.

The following figures illustrate the comparatively unimportant part played by women in crime in this country:

Statistics regarding women prisoners, as distinct from others, are very limited. The following information, however, is available (Percentage of women to total figures for males and females given).

I.—WOMEN CONVICTED OF INDICTABLE OFFENCES, 1932-1936

| 1932 | 1933 | 1934 | 1935 | 1936 |
|-------|-------|-------|-------|-------|
| 3,202 | 3,477 | 3,145 | 3,336 | 3,370 |
| 10.2% | 10.5% | 9.9% | 9.9% | 9.3% |

II.—WOMEN CONVICTED OF NON-INDICTABLE OFFENCES, 1932-1936

| 1932 | 1933 | 1934 | 1935 | 1936 |
|--------|--------|--------|--------|--------|
| 16,591 | 17,444 | 17,202 | 23,148 | 21,934 |
| 5.5% | 5.9% | 5.2% | 6.3% | 5.8% |

III.—TOTAL WOMEN CONVICTED, 1932-1936

| 1932 | 1933 | 1934 | 1935 | 1936 |
|--------|--------|--------|--------|--------|
| 19,793 | 20,921 | 20,347 | 26,484 | 25,304 |
| 6% | 6.4% | 5.6% | 6.6% | 6.1% |

IV.—WOMEN IN CANADIAN REFORMATORIES, 1932-1936

| 1932 | 1933 | 1934 | 1935 | 1936 |
|-------|-------|-------|------|-------|
| 852 | 764 | 734 | 722 | 640 |
| 19.4% | 19.6% | 19.7% | 20% | 16.9% |

V.—WOMEN IN CANADIAN JAILS AND REFORMATORIES, 1932-1936

(Except P.E.I., N.B. and Manitoba)

| 1932 | 1933 | 1934 | 1935 | 1936 |
|-------|-------|-------|-------|-------|
| 2,384 | 2,484 | 2,027 | 1,672 | 2,053 |
| 6% | 6.7% | 5.6% | 5.6% | 6.5% |

VI.—WOMEN IN CANADIAN PENITENTIARIES, 1932-1936, MARCH, 1937

| | | | | | |
|----|-----------------|-----------------|-----------------|-----------------|----|
| 52 | 48 ¹ | 46 ¹ | 40 ¹ | 31 ² | 27 |
|----|-----------------|-----------------|-----------------|-----------------|----|

VII.—WOMEN ADMITTED TO REFORMATORIES, 1932-1936

| 1932 | 1933 | 1934 | 1935 | 1936 |
|------|------|------|------|------|
| 594 | 652 | 515 | 573 | 487 |
| 6.5% | 8.6% | 7.5% | 8.2% | 6.5% |

¹ These figures do not include the women at Piers Island Penitentiary in British Columbia, which was a purely temporary arrangement.

² This figure is affected by remission granted at time of the King's Jubilee.

These figures, incomplete as they are, demonstrate three very definite facts: (1) Women are a very minor portion of the criminal population; (2) a greater percentage of women are sent to reformatories and a smaller percentage to penitentiaries than their crime percentage would indicate, and (3) the percentage of women is higher for indictable than non-indictable offences.

The percentage of women to total convictions is approximately 6 per cent, and the percentage to the total sent to jails and reformatories is approximately 6 per cent. Of the population of penitentiaries, the percentage of women drops to approximately 1 per cent, and, in reformatories, rises to approximately 19 per cent. Finally, although the percentage of women to total convictions is approximately 6 per cent, their percentage of convictions for indictable offences rises to approximately 10 per cent.

An examination of the types of crimes for which women are sent to penitentiaries shows the following:

| | |
|---|----|
| Offences against public order and peace.. . . . | 2 |
| Abortion and attempted abortion.. . . . | 3 |
| Bodily harm.. . . . | 1 |
| Manslaughter.. . . . | 8 |
| Murder.. . . . | 6 |
| Attempted murder.. . . . | 1 |
| Other offences against the person.. . . . | 1 |
| Arson.. . . . | 3 |
| Breaking, entering and theft.. . . . | 1 |
| Forgery.. . . . | 1 |
| Retaining stolen property.. . . . | 1 |
| Theft.. . . . | 4 |
| Total.. . . . | 32 |

It will be noted that murder, attempted murder, and manslaughter, account for approximately 47 per cent, or nearly half. These women are not a crime problem but are of the occasional or accidental offender class, who have been carried away by the overmastering impulse of the moment, often the outbreak of long pent up emotion. They are not a custodial problem, and could be cared for as well in a reformatory as in a penitentiary. The same is true of the other seventeen female penitentiary inmates.

An examination of the crimes for which women have been sent to the provincial reformatories and jails reveals that women in these institutions, in 1936, were convicted of the following classes of crimes:

CLASS I

| | |
|-------------------------------------|----|
| Abduction.. . . . | 2 |
| Abortion.. . . . | 5 |
| Assault.. . . . | 39 |
| Attempted suicide.. . . . | 5 |
| Manslaughter.. . . . | 3 |
| Murder and attempted murder.. . . . | 7 |
| Others.. . . . | 2 |
| Total.. . . . | 63 |

CLASS II

| | |
|--------------------------------------|-----|
| Arson and incendiarism.. . . . | 2 |
| Breaking, entering and theft.. . . . | 25 |
| Damage to property.. . . . | 6 |
| Forgery.. . . . | 8 |
| Fraud and false pretences.. . . . | 43 |
| Theft.. . . . | 202 |
| Receiving stolen goods.. . . . | 19 |
| Trespass.. . . . | 4 |
| Total.. . . . | 309 |

CLASS III

| | |
|--|-----|
| Abusive and obscene language.. . . . | 2 |
| Bigamy.. . . . | 5 |
| Incest.. . . . | 4 |
| Indecent exposure, etc.. . . . | 3 |
| Juvenile delinquency.. . . . | 9 |
| Keeping houses of ill-fame, inmates, etc.. . . . | 173 |
| Perjury.. . . . | 8 |
| Total.. . . . | 204 |

CLASS IV

| | |
|--|-------|
| Breach of By-Laws.. | 13 |
| Breach of Customs Act.. | 4 |
| Breach of Excise Act.. | 31 |
| Breach of Liquor Laws.. | 220 |
| Breach of Narcotic Act.. | 6 |
| Breach of peace.. | 33 |
| Drunk and disorderly.. | 206 |
| Escaping and obstructing police.. | 3 |
| Lunatics and persons unsafe to be at large.. | 45 |
| Prostitution.. | 12 |
| Selling or giving liquor to Indians.. | 46 |
| Vagrancy.. | 412 |
| Other offences of this class.. | 446 |
| Total.. | 1,477 |
| Total of all classes.. | 2,053 |

An analysis of these figures shows the following percentages per class:

| | |
|--|---------------|
| Class I.—Offences against the person.. | 63, or 3% |
| Class II.—Offences against property.. | 309, or 15% |
| Class III.—Offences against decency and morals.. | 204, or 10% |
| Class IV.—Offences against public order, etc.. | 1,477, or 72% |

The general conclusion to be drawn from women's relative place in crime is that, as a separate problem, it is comparatively unimportant, and that the custodial care and reformatory treatment of women should be delegated to properly constituted and properly managed reformatories, and that no women should need to be confined in penitentiaries. There is no justification for the erection and maintenance of a costly penitentiary for women alone, nor is it desirable that they should be confined, either in the same institution as men, or in one central institution far from their place of residence and their friends and relations.

CHAPTER XI

TREATMENT OF INSANE PRISONERS

It is not the intention of your Commissioners to prescribe treatment for insane prisoners. This is necessarily a task for specialized medical authority, and the subject does not come within the scope of the reference of this Commission. Our duty is to consider the manner in which insane prisoners are dealt with under the law as it is, and to make recommendations in this regard for the future.

The provisions of the Criminal Code governing the trial and custody of insane persons may be summarized as follows:

1. If evidence is given upon the trial of an accused person charged with an indictable offence that such person was insane at the time of the commission of the offence, the jury shall, if they acquit such person, declare whether he is acquitted on the ground of insanity;
2. If at any time after indictment, and before verdict is given, it appears to the court that there is any reason to doubt whether the accused is capable of conducting his defence or is unfit to stand his trial on account of insanity, an issue must be directed to determine whether he is fit to stand his trial or not;
3. If an accused person is found to be insane, the court must order that he be kept in close custody until the pleasure of the Lieutenant Governor of the province be known;
4. The Lieutenant Governor of the province may make an order for the safe custody of those found insane. In practice, these prisoners are confined in one of the provincial mental hospitals;
5. The Lieutenant Governor may, upon evidence satisfactory to him showing that any person that is imprisoned in a prison other than a penitentiary is insane, mentally ill, or mentally deficient, order the removal of such person to a place of safe-keeping until his complete or partial recovery is certified, when he may be returned to the prison. When such person is confined in a mental hospital or other provincial institution, he is subject to the direction of the Minister of Health of the province;
6. The Lieutenant Governor may, upon evidence showing that a person imprisoned in a reformatory prison, reformatory school or industrial school for feeble minded is mentally ill or mentally deficient, order the removal of such person to a place of safe-keeping until his complete or partial recovery is certified. During the period he is so confined the prisoner shall be under the direction of the Minister of Health.

These provisions do not deal with the treatment of prisoners who have been found to be insane after having been sentenced to serve terms in the penitentiary.

The following provisions of the Penitentiary Act relate to such cases:

Section 53 provides that, if at any time within three months after the receipt of a prisoner at the penitentiary it is established to the satisfaction of the Minister by a written certificate of the penitentiary surgeon or otherwise that the prisoner is *insane or imbecile and was insane or imbecile* at the time he was received at the penitentiary, the prisoner may be returned to the place of confinement from whence he came.

The procedure involved is irrelevant for the present purposes.

Section 56 provides, when the surgeon of a penitentiary reports in writing to the warden that a prisoner is insane and should be removed to an asylum for the insane, the warden shall report the facts to the Superintendent. If an arrangement exists with the Lieutenant Governor of any province for the maintenance of such a prisoner in an asylum for the insane of the province, the Minister may direct the removal of the prisoner to the custody of the keeper or person in charge of such an asylum for the unexpired portion of the sentence. If, before the expiration of the sentence, the prisoner recovers and his recovery is certified by the surgeon or medical officer of the asylum in which he is in custody, he may be returned to the penitentiary, where he shall be kept until the expiry of his sentence.

Section 54 provides that the Minister may direct the warden to set apart a portion of a penitentiary for the reception, confinement, and treatment of insane prisoners. If a prisoner is kept in a penitentiary notwithstanding that he is insane, and he is insane at the expiry of his sentence, it is the duty of the surgeon to certify accordingly, and the warden shall report the fact to the Superintendent, and the Minister shall thereupon communicate the fact to the Lieutenant Governor of the province so that the prisoner may be removed from the penitentiary to a place of safe-keeping within the province.

Other provisions, with which it is unnecessary to deal for the purposes of this report, are made for procedure in carrying out the terms of the Act.

Until the 15th of June, 1915, a ward was maintained at Kingston Penitentiary for the care of prisoners who became insane during their confinement in the penitentiaries. The 1913 Commission reported on the unsatisfactory condition of this insane ward in Kingston Penitentiary and suggested two plans for the future:

- “(a) The consummation of an arrangement with the provinces for the care of all criminally insane in the mental institutions of the provinces. (Such an arrangement existed at that time with the western provinces.)
- (b) The erection and equipment of an institution by the Government of Canada for the care of the insane in the penitentiaries.”

We think the penitentiary administration was wise in adopting the former suggestion and discarding the latter. Agreements with all the provinces for the care in provincial institutions of those who become insane during their incarceration in the penitentiaries are now in existence. The general plan of these is that the provincial authorities agree to care for all inmates of the penitentiaries who become insane after they have been received into the penitentiaries. In consideration for this undertaking, the federal authorities agree to pay a per diem allowance during the unexpired portion of the prisoners' sentences.

We think this system is preferable to the erection of a special institution to be owned and operated by the Government of Canada. Objections to the latter course are as follows:

- (a) The expense would be out of proportion to the number of inmates. The average number committed to mental hospitals or asylums from the penitentiaries in the last five years has been thirty-seven prisoners per annum. For the previous period of five years it was twelve prisoners per annum;
- (b) The period of treatment would be broken, because the responsibility of the Government of Canada to maintain the prisoners would terminate with their sentences;
- (c) In order to secure proper treatment for the different types of insane, per capita cost of equipment and personnel would be prohibitive, and hence the quality of treatment would be inferior to that which is given in the provincial institutions;
- (d) The transportation of insane prisoners from different parts of Canada to such an institution would be costly and dangerous;
- (e) It is not advisable to extend the duplication of public services of this character between the federal and provincial authorities.

Some serious difficulties have arisen in the past because of the refusal of the penitentiary authorities, acting under section 53 of the Act, to accept convicted persons into the penitentiaries, on the ground that they were insane at the time of their reception. Further difficulty has arisen in determining whether or not a prisoner is insane and so subject to transfer under the provisions of section 56 of the Act.

The following cases have been brought to the attention of your Commissioners and serve to illustrate the importance of establishing a better working arrangement between the provincial and federal authorities:

Prisoner "A" came before your Commissioners in Manitoba Penitentiary. His file shows that he was convicted of murder in Edmonton in 1912 and that his sentence was commuted to life imprisonment. On the closing of Alberta Penitentiary in 1920 he was transferred to Manitoba Penitentiary. On November 25, 1936, the penitentiary medical officer reported to the warden:

"In the case of the above named, it is quite definitely one of mental disease, i.e., insanity, as has been reported before, and he has

from his history been insane from the time of his crime, which was committed twenty-four years ago, and during all that time he has been in confinement.

His symptoms of insanity are delusions and hallucinations, mainly auditory, i.e., he is continually hearing noises where none exist, although he complains of the noise made by the talking of convicts in neighbouring cells.

He has several times asked to be 'dispatched' as he expresses it, meaning thereby, killed. His latest wish was for death by shooting.

As he is quite unable to do any useful work here, or in fact anywhere, he would be unable to earn his living anywhere, and is, therefore, likely to be a public charge for the rest of his life.

On account of his past history he may, at any time, attempt suicide or even attempt to kill other persons for little or no cause whatever.

As, in my opinion, the prison hospital is not the proper place for him, I would advise that, if possible, he be removed to a regular mental hospital, although a complete cure is not to be expected there or in fact anywhere else.

In support of my opinion, I would recommend that opinion of another medical practitioner be obtained as to his mental condition. This is necessary before he can be admitted to a provincial mental asylum."

Following the receipt of the medical officer's report, the warden was authorized to have the prisoner examined by an eminent psychiatrist from one of the mental hospitals of Manitoba. The psychiatrist made a detailed report, concluding:

"The inmate is insane and has been insane for a long time. His insanity is of a depressive type and requires institutional care."

Following this report, on January 20, 1937, the Deputy Minister of Justice wrote to the Attorney-General of Alberta, stating:

"It is desired to remove the above named convict, under the provisions of section 56 of the Penitentiary Act, to a mental disease institution where his care and maintenance will be paid for under agreement with your Government until the expiration of his sentence."

On receipt of this communication, the Deputy Attorney General replied:

"I would urge upon you the absolute necessity of some provision being made for the care of the so-called criminally insane in an institution under the control of the Dominion Government. Our Provincial Mental Hospitals at Ponoka and Oliver are crowded to their utmost capacity, but apart from this consideration I do not think it should be expected that a Provincial Mental institution should have facilities for the care and treatment of the criminally insane."

On June 1, 1937, the acting Deputy Minister of Justice wrote to the Attorney General of Manitoba requesting leave to have the prisoner transferred to a mental hospital in Manitoba pending arrangements with the province of Alberta. Nothing came of his suggestion.

On July 2, 1937, the Deputy Minister of Justice wrote to the Deputy Attorney General of Alberta explaining the attitude of the Government of Canada on the matter and pointing out that it was the obligation of the province to care for insane persons irrespective of whether they were of criminal tendency or otherwise, and that the province's responsibility in this regard was unquestioned whether before or after the prisoner had served his sentence. The view of the Deputy Minister of Justice was that the Deputy Attorney General's contention that the institutions in Alberta were overcrowded and had no facilities for caring for insane criminals was not relevant to the question of responsibility. No reply appears to have been received to this letter.

When your Commissioners saw this prisoner in June, 1937, it was obvious that he was not a proper case for confinement in a prison where it is necessary to maintain discipline and conform to routine. His presence there was a hardship to himself and an injustice to the prison authorities and the other prisoners.

On the visit of your Commissioners to Saskatchewan Penitentiary in May, 1937, our attention was directed to prisoner "B," who was confined in a cell in the hospital among other prisoners, some of whom were seriously ill. This prisoner was convicted at Edmonton on November 5, 1936 on a charge of contributing to juvenile delinquency. He was sentenced to two years in the penitentiary and admitted to Saskatchewan Penitentiary on November 10, 1936.

On December 19, 1936, the penitentiary medical officer certified that he considered the prisoner to be insane and that he had been insane at the time of his admission, and he recommended that the prisoner be given treatment in a mental hospital. This was reported to the Superintendent on December 19. On December 23, the Deputy Minister of Justice wrote to the Attorney General of Alberta advising him of the circumstances and stating that he wished the Attorney General to designate the institution to which the prisoner should be removed. No reply appears to have been received to this letter.

On February 23, 1937, the acting Superintendent wrote to the Attorney General of Alberta requesting a reply. On March 3, the Deputy Attorney General replied advancing substantially the same contentions as were put forward in the case of prisoner "A." On May 22, 1937, the penitentiary medical officer reported to the warden:

"At times this convict becomes disturbed and is noisy with fits of violent yelling and screaming. He becomes very abusive at times.

This is very disturbing in the hospital and I recommended his removal to a Mental Hospital as soon as possible."

On August 28, 1937, the Deputy Minister of Justice wrote to the Deputy Attorney General of Alberta, emphasizing the importance of

immediate action. On September 1, the Deputy Attorney General of Alberta replied setting forth his former contentions, and concluded:

"I can only repeat what I have said in my letter to the Superintendent of Penitentiaries—that there is no accommodation available in our Mental Hospital for any patients of the criminal insane class."

On December 22, 1937, the penitentiary medical officer reported to the warden:

"The above noted convict is insane and was insane when admitted to the Penitentiary.

He becomes very noisy at times with violent fits of temper.

His mental condition is gradually becoming worse and I urgently recommend his transfer to a Mental Hospital for care and treatment."

Prisoner "C" was convicted of murder in the Alberta courts in 1928, and his sentence was later commuted to life imprisonment. At his trial a defence of insanity was set up without success.

Upon being received into the penitentiary he was examined by the penitentiary medical officer and found to be insane. Considerable correspondence ensued between the Department of Justice and the Attorney General's Department of the province of Alberta. The Deputy Attorney General of Alberta contended that, in view of the fact that the defence of insanity had been set up at the trial without success, it was not proper for the penitentiary medical officer to decide under the provisions of section 53 of the Penitentiary Act that the prisoner was insane. He repeated the contention that,

"There are no facilities in this Province for the care of the class known as the Criminally Insane."

The Department of Justice authorized the superintendent of one of the provincial mental hospitals of the province of Saskatchewan to examine the prisoner and report on his mental condition. The report was as follows:

"This boy is an embeccile with an intelligence not equal to that of the average child of six years of age.

There is no doubt in my mind that this man is not responsible for his actions in any way, shape or form.

That this simple irresponsible creature should be in the position in which I find him to-day in this civilized country is amazing to me."

Upon receipt of this report, the Department of Justice communicated the contents to the Deputy Attorney General of the province of Alberta, and the Minister gave instructions that the powers vested in him under section 53 of the Penitentiary Act should be exercised and the prisoner should be returned to the Alberta jail from whence he came.

A penitentiary officer holding a warrant under the provisions of this section conveyed the prisoner to the provincial jail at Fort Saskatchewan,

Alberta. Here the Alberta authorities refused to receive him, and the prisoner was left on the steps of the jail. With neither authority prepared to accept him, the prisoner walked away into the village and was at liberty until the local police apprehended him on a charge of being unlawfully at large. He was held in jail on this charge for about eighteen months, during which time correspondence was carried on between the Attorney General's Department of the province of Alberta and the Department of Justice. Finally, in order to close the case the Department of Justice agreed that if the Attorney General of Alberta was determined to contend that the man was sane, the prisoner would be accepted by the penitentiary. This was done, and the prisoner is still confined there.

These cases serve to illustrate the difficulties that arise in administering sections 53 and 56 of the Penitentiary Act. They are not confined to any one province. The illustrations taken refer only to cases from the province of Alberta but other provinces have put forward similar contentions. The difficulty appears to your Commissioners to be one which should be adjusted by friendly negotiations between the respective authorities, rather than by a strict determination of constitutional rights.

The contentions of the provinces under dispute may be summarized as follows:

1. The provisions of section 53 of the Penitentiary Act are *ultra vires* of the powers of the Parliament of Canada.
2. The provisions of section 53 of the Penitentiary Act are arbitrary and drastic. In law the decision rests solely with the penitentiary medical officer as to whether the prisoner was insane on his admission to the penitentiary.
3. If the penitentiary medical officer decides that the prisoner is insane on reception into the penitentiary, the prisoner then becomes a charge of the province to be maintained at provincial expense during the term of the prisoner's sentence.
4. If the sanity of a prisoner has been put in issue at a criminal trial and the jury has refused to find the prisoner "not guilty on the ground of insanity," he should not be certified to be insane by the penitentiary medical officer unless it can be shown that his mental condition has changed between the time of his trial and his reception into the penitentiary.
5. The provinces ought not to be asked to maintain mental institutions for insane criminals; also the mental institutions in the provinces are in the nature of hospitals to which law abiding citizens are sent for treatment, and it is unfair to these citizens to be confined in the same institution with dangerous criminals who have committed serious crimes.

It is in order for your Commissioners to deal with these contentions because they have been raised by the provinces.

1. Under the provisions of the British North America Act the Parliament of Canada is given power to make laws concerning the following classes of subjects, among others:

- (a) The criminal law, except the constitution of courts of criminal jurisdiction, but including procedure in criminal matters.
- (b) The establishment, maintenance and management of penitentiaries (Penitentiaries are not defined.)

The legislatures of the provinces are given power to make laws in relation to matters coming within the following classes of subjects:

- (a) The establishment, maintenance, and management of public and reformatory prisons in and for the province.
- (b) The establishment, maintenance, and management of hospitals, asylums, charities, eleemosynary institutions in and for the province, other than marine hospitals.

The power given to the respective bodies implies a legislative responsibility to make such provision in regard to the subject matter as the public interest may require. The Parliament of Canada has defined the purposes and functions of a penitentiary as follows:

“As a prison for the confinement and reformation of persons lawfully convicted of crime before the Courts of Criminal Jurisdiction of the Province . . . and sentenced to confinement for life or for any term not less than two years.”

It has been suggested to us that the power to legislate in respect to criminal law confers on the Government of Canada a responsibility to legislate in regard to that class of the king's subject which is spoken of as “the criminally insane.” Your Commissioners are of the opinion that there is no class of persons who can be termed “criminally insane.” Those who have committed, or are likely to commit, violent or unlawful acts by reason of their insanity are essentially a medical problem and not a legal one. They are, in no sense, criminals, because their violent tendencies are due to mental disease. As diseased persons they are necessarily a responsibility of the province.

Your Commissioners do not think it can be seriously contended that the provisions of section 53 of the Penitentiary Act are *ultra vires* the Parliament of Canada. The Parliament of Canada has power to pass laws relating to the establishment, maintenance, and management of penitentiaries. Parliament has declared that the purpose of a penitentiary is for the punishment and reformation of prisoners sentenced to serve terms of two years or more. Parliament has further provided that a prisoner will not be received into a penitentiary if the penitentiary medical officer certifies that he is suffering from a dangerously infectious or contagious disease, or if, within three months after his reception of the penitentiary, the prisoner has been found to have been insane at the time he was received into the penitentiary and to be still insane.

Your Commissioners are of the opinion that this is legislation that lies strictly within the subject relating to “the establishment, maintenance

and management of prisons," and that the Parliament of Canada has power to exclude from the penitentiaries prisoners who are not proper subjects for incarceration in an institution designed for the purposes of a penitentiary.

2. Your Commissioners are also of the opinion that, under the provisions of section 53 of the Penitentiary Act, the penitentiary doctors are given powers which are too wide. We have not, however, seen any evidence that the penitentiary authorities have sought to use this power in any arbitrary manner. In all cases which have been brought to our attention where there has been any question as to the prisoner's sanity independent alienists of wide experience have been called in to examine the prisoner and make a report on his mental condition. As a guarantee, the section might well be amended to make provision in law for the practice that is now in effect.

3. Although your Commissioners have no doubt as to the power of the Parliament of Canada to enact the provisions of section 53 of the Act, they are of the opinion that, when a prisoner has been duly tried by a court of competent jurisdiction and sentenced to a term of imprisonment of two years or more, the cost of his maintenance during the term of his sentence ought to be provided by the Parliament of Canada, even though he may be certified by competent medical authority to have been insane at the time he was received into the penitentiary.

4. Your Commissioners do not agree with the contention of the provincial authorities that the determination of the issue of the prisoner's sanity during a criminal trial settles the matter as to whether the prisoner is sane or insane within the meaning of the Penitentiary Act or whether the prisoner is a proper subject to be confined in a penitentiary where the object is punishment and reformation. The defence of insanity at a criminal trial turns on narrow and controversial legal grounds, and the verdict of a jury on a trial of this issue can by no means be taken as a guide in determining the proper subsequent treatment to be given to the prisoners with a view to his own welfare and the welfare of those with whom he must come in contact during his confinement.

5. Your Commissioners are of the opinion that the contention of the provinces, that they ought not to be compelled to maintain mental institutions for the treatment of convicted criminals and that their responsibility is limited to the maintenance of institutions for the mental treatment of "law abiding citizens," is not well founded. The powers given to the provinces under the British North America Act, to pass laws relating to "the establishment, maintenance, and management of hospitals, asylums...", carries with it the responsibility to make provision for the treatment of all the king's subjects in the province who may require treatment in such institutions. This responsibility is not limited to any class of subjects. It extends as well to the subject who may have been convicted of a criminal offence as to the subject who may not at any time have been guilty of any infraction of the laws of the country. It may be

pointed out that, with a few exceptions, all prisoners are eventually released from prison. These individuals cannot be refused proper hospital treatment because they have served terms in prison. It may also be pointed out that if prisoners become insane while serving terms in provincial institutions they must be transferred to provincial mental hospitals. It is therefore evident that no case can be made out on the ground that it is unfair to other patients in these mental hospitals for the province to be compelled to treat "convicted criminals."

Having regard to all the circumstances, and considering the welfare of the patients as well as the interests of the tax payer, your Commissioners are of the opinion that the most efficient method of caring for insane prisoners in the penitentiaries is by continuing and expanding the present friendly arrangements that are in effect between the federal and provincial authorities in respect to transferring insane prisoners from the penitentiaries to the provincial hospitals under the provisions of section 56 of the Penitentiary Act. We are also of the opinion that similar arrangements should be made in respect to prisoners who are dealt with under the provisions of section 53 of the Act.

All transfers of insane prisoners ought to be effected promptly. It is a grave reflection on our penal system that several insane prisoners should be confined in our penitentiaries, caged like wild beasts, where there is neither means for proper treatment nor personnel with experience to deal with them. If satisfactory arrangements cannot be effected along the lines suggested in this report, your Commissioners recommend that the matter of jurisdiction be referred to the courts without delay so that the ultimate responsibility may definitely be determined.

CHAPTER XII

TREATMENT OF DRUG ADDICTS

In prison the drug addict is a constant source of irritation and difficulty. He is usually clever, irrational, and undisciplined. He is cunning and irresponsible. The drug addict is not merely confined in the prison for crimes involving drugs, but usually for crimes that he has committed in order to secure drugs. The offences are often of a petty nature for which the prisoner receives a short term in the provincial jail or reformatory, where, during his sentence, he is a constant trouble maker.

It is simple to give these prisoners all the medical treatment they require. They are "weaned" from the drug in a short time, and almost invariably gain in weight and general physical condition during the period of their confinement. Although they are "weaned" as long as they are confined in prison and cannot get access to drugs, *we can find no evidence that they are ever cured*. We have enquired from prison doctors and prison authorities throughout Canada and in other countries visited by your Commissioners, and we have not found anyone who contends that a drug addict is ever cured. As one warden put it, the use of the drug "has killed the will to be cured," and, without the will to be cured, no cure is possible. We believe that it is in the public interest that the widest possible publicity should be given to this fact. We are also of the opinion that the most insistent and relentless efforts should be put forth by all law enforcement bodies to suppress the unlawful traffic in narcotic drugs. Rigorous punishment should be meted out to those found guilty of participating in this traffic and, on repeated conviction, they should be entirely segregated from society so that they may have no opportunity of carrying on their illicit trade.

The treatment of the prisoner who is serving a term for traffic in drugs, and the treatment of the drug addict, are two different problems. The problem that the drug addict creates in prison management was ably put before the Commission in a brief presented by the Attorney General of Manitoba. The following is a passage taken from this brief:

"This memorandum will now proceed to deal with certain subjects which are not specifically covered by the 'memorandum of subjects to be investigated' by this Commission.

The Opium and Narcotic Drug Act, 1929

The Government of Manitoba desires to make special mention of breaches of The Opium and Narcotic Drug Act, 1929 and subjects collateral thereto.

Those who are in a position to know state that Winnipeg is the third largest drug-trafficking point in Canada.

The treatment of the addict confined in the provincial gaols in Manitoba has been found to be and is a problem of great magnitude.

During recent months the public press has had many items therein relative to this 'drug traffic' and cases thereunder in the various criminal courts.

A vigorous prosecution and the imposition of severe penalties on those who traffic illicitly in drugs are necessary, but it is reasonable to say that that is only half the problem.

It is also necessary to destroy the market of the illicit dealers by the care of those persons termed addicts who have an overpowering impulse for the drugs defined in The Opium and Narcotic Drug Act, 1929.

One of the worst class of offenders that we have to deal with in our penal institutions is the drug addict.

He is not amenable to discipline. He is a constant source of irritation. He is unreliable and generally a danger to the orderliness and general good conduct of an institution.

Not only is he a danger to the discipline of the institution but he also is a danger to the other inmates of the institution.

Seldom are these offenders committed for an offence under The Opium and Narcotic Drug Act. The usual charge is theft or vagrancy and they have to be treated as other inmates.

There are two institutions in Manitoba where drug addicts are incarcerated. The male addicts are incarcerated in Headingly gaol and the female addicts in the gaol for women at Portage la Prairie.

A medical authority who has given considerable attention to the treatment of drug addicts recently expressed the following opinion:

'Once an individual becomes addicted to narcotic drugs he or she very seldom does anything of a constructive nature, and never helps to build but always destroys. They have no gainful way of making a livelihood, so prey upon society. Their chief aim in life is to get enough narcotics to satisfy their inward desire for the drug. Economically they must be placed on the debit side of the ledger. They procure the money to buy drugs by begging, borrowing or stealing. Consequently, society keeps them whether in gaol or out.'

The experience of Manitoba would bear out the statement that drug addicts cannot be cured. A reference to the records of the gaol for women at Portage la Prairie where women addicts are confined shows several cases where in a period of six years repeated offences resulting in imprisonment for periods of from two to six months have been committed by women. They were charged with being inmates of bawdy houses, vagrancy, etc. In all cases they were drug addicts. In each case death has resulted.

There is only one way to handle this type of offender and that is to confine him or her in an institution separate and apart from all other inmates. They should not be allowed any means of communication with others and their period of incarceration should be for an indeterminate term.

As asylums exist for the care of the mentally afflicted so should some institutions be established for the drug addicts. Prison is no place for them. They suffer from a disease which makes criminals out of them.

The problem is a national one and there should be a branch of the national service devoted to the care of these unfortunate persons who have become so addicted."

While your Commissioners agree with much that is said in the above brief, the geographical distribution of the population of Canada renders it impossible to provide a separate institution for prisoners addicted to the use of drugs.

Your Commissioners are of the opinion that, if the recommendations of this report are adopted in regard to the establishment of a prison for habitual offenders and a prison for incorrigibles, many of the most troublesome drug addicts might be removed from the prison population and segregated in such places. If a recidivist criminal is addicted to the use of narcotic drugs the hope of his reformation by confinement in a penitentiary is indeed a small one. In the opinion of your Commissioners, this type of criminal is a menace to society whether in or out of prison, and should, as far as possible, be segregated in an institution of the character otherwise recommended in this report, where the evils of his contaminating influence will be reduced to a minimum.

CHAPTER XIII

INTERNATIONAL STANDARD MINIMUM RULES

One of the subjects mentioned in the order of reference was a study of the "International Standard Minimum Rules." These rules are contained in a pamphlet entitled "Extrait du Recueil de documents en matière Pénale et Pénitentiaire."¹ They were drawn up by the International Penal and Penitentiary Commission in 1929, and forwarded to the League of Nations in 1930. The League of Nations submitted them to the Governments of its state members, as well as to non-members of the League. They were also submitted to certain institutions or commissions, attached to the League, dealing with penal and penitentiary law. In 1931, the Assembly of the League of Nations forwarded to the International Penal and Penitentiary Commission the replies and observations that had been collected and, in 1932, a committee at Geneva carefully examined all the documents filed with the secretary. At its sessions in 1933, the Commission finally adopted the revised text of the rules for the treatment of prisoners and, in September, 1934, the fifth committee of the Assembly of the League of Nations endorsed them as "International Standard Minimum Rules," and recommended that the Governments involved should accept them as such, and apply them to the treatment of all prisoners.

Your Commissioners have made a careful study of these rules, compared them with the present rules and regulations in force in Canadian penitentiaries, and have considered them in making the recommendations contained in this report. As a general observation, it may be stated that some of these rules are embodied in the Canadian penitentiary regulations, that some of them are observed and others not, that some Canadian penitentiary rules set a higher standard than the international rules, and that, while some conditions in the Canadian penitentiaries are below the standard, others are above those established in the international code.

A brief analysis of the "International Standard Minimum Rules" follows:

Article 1 deals with "distribution and separation," or what we term, classification. Unfortunately, in Canadian penitentiaries no real classification has been made. The matter is dealt with in another part of this report.

Article 2 recommends separate cells instead of dormitories. This rule is in force in our federal institutions but is not in force in many provincial jails and reformatories.

Article 3 deals with other phases of classification, and comments made regarding article 1 also apply to this article.

¹ Bulletin de la Commission Internationale Pénale et Pénitentiaire, vol. IV (special), Staempfli & Cie, Berne, 1935. (This is on file in the offices of the Commission, No. 678.)

Article 4 deals with rehabilitation and reformation. The principle herein stated is not observed in our penitentiaries, although it is contained in the Penitentiary Act. This matter is also dealt with elsewhere in the report.

Article 5 deals with prisoners awaiting trial and persons in prison for debt, and recommends that they should not be subjected to any greater restriction of liberty than is necessary. This is observed in our prisons.

Article 6 deals with the care of valuables taken from prisoners, and recommends that such valuables should be kept in a safe place in order to be returned to the prisoners at the time of their release. This is observed in our prisons.

Articles 7 and 8 deal with clothing and food, and are observed in our penal institutions. The prisoners in the Canadian penal institutions, in fact, have better food and better clothing than the established standard. *Article 8* recommends that the medical officer should supervise diets. In our institutions this officer has confined himself largely to the diet of sick prisoners and those under restricted diet, and has not supervised the feeding of the prisoners in general.

Articles 9, 10, 11, and 12 deal with employment in the penal institutions. The principles embodied are generally observed in our institutions. This matter, and the question of leisure time employment mentioned in *article 12*, have been dealt with extensively in this report.

Article 13 deals with remuneration for prison labour. The Canadian regulations provide for the payment of five cents a day, but this is given, rather as a gratuity based on conduct and industry, than for work accomplished. This matter has also been dealt with in this report.

Articles 14, 15, 16, 17, 18, 19, 20, and 21 deal with cells and clothing. The cell accommodation and the clothing of the prisoners in Canadian institutions are above the standard set up by these rules. The only qualification to be made in this connection is that the lighting in cells of Canadian penitentiaries is unsatisfactory at present, but this subject is dealt with elsewhere in this report.

Articles 22, 23, 24, 26, and 48 deal with medical care, and consist only of elementary considerations regarding it. This question has been dealt with extensively in different parts of this report and, apart from the examination on arrival, which seems to be superficial, conditions in our penitentiaries are up to the standard set by these rules. *Article 48* recommends that a psychiatrist should be connected with each penal institution. At present there are no psychiatrists attached to our institutions, but their appointment has been recommended in this report.

Article 25 deals with outdoor and indoor physical exercise. The standard set up by this article is generally followed in our institutions, and

your Commissioners have recommended in this report that more physical exercise and more recreation should be permitted than is the case at the present time.

Articles 27 and 47 deal with the religious services, which, in Canadian institutions, are above the standard set by these rules.

Article 28 deals with intellectual instruction. Our institutions at present are below the standard set up by this rule, and your Commissioners have recommended elsewhere that better facilities be provided for educational instruction.

Article 29 deals with libraries, and recommends that prisoners should be allowed the use of books from the commencement of their sentences. The libraries in the Canadian penitentiaries are dealt with elsewhere in this report, and recommendation is made that books should be given to the prisoners at the commencement of their sentences.

Article 30 deals with the necessity of furnishing prisoners with the means of keeping in touch with the important events which take place in the world. At the present time there is a weekly bulletin issued in the Canadian penitentiaries, but this is not sufficient. Your Commissioners have recommended that a weekly newspaper should be supplied.

Article 31 deals with visits and correspondence. The facilities in Canadian institutions are above the standard set by this article, and a further extension of these facilities is recommended in the report.

Article 32 deals with permission given to prisoners belonging to a foreign nation to hold communication with the consuls of the state to which they belong. This rule is contained in the Canadian penitentiary regulations and is observed in Canadian penitentiaries.

Articles 33, 34, and 35 deal with discipline. It is recommended that no punishment should be given other than is countenanced by the provisions of the law, and that a thorough medical examination should be given before the punishment is inflicted. This rule is covered in the penitentiary regulations, but, as indicated in this report, is not always observed.

Article 35 deals with trials for prison offences. The principle recommended is that the accused should be given an opportunity to defend himself. This principle is embodied in our regulations but it has not been adequately observed in our institutions. Your Commissioners deal extensively with this matter in another part of their report.

Article 36 deals with corporal punishment, and a hope is expressed that corporal punishment will no longer be resorted to except in exceptional cases. There have been grave abuses in the infliction of corporal punishment in our institutions, and, in the chapter dealing with this subject, your Commissioners have recommended that many limitations should be imposed.

Article 37 deals with placing prisoners in dark cells. There have also been abuses in connection with this matter in our institutions, but, in the last few years, condemnation of prisoners to cells without light has only been resorted to in exceptional cases, and is now practically abolished.

Article 38 deals with the necessity for supervision by the medical officer in cases where food is reduced below the ordinary standard. We have a similar regulation in our penitentiary rules, which is generally well observed.

Article 39 deals with instruments of restraint, such as handcuffs and strait-jackets, and the principle is stated that they should never be applied as punishment but only for restraint. Punishment of this nature is not provided for in the penitentiary regulations.

Article 40 deals with chains, which are not used in our penal institutions.

Article 41 recommends that every prisoner should have the opportunity to make requests or complaints to the warden. We have a similar enactment in our regulations.

Article 42 recommends that prisoners should have an opportunity to make complaints to superior authorities outside the prison. At the present time such opportunity in Canadian penitentiaries is extremely limited in practice, and your Commissioners have recommended adequate facilities for making such complaints through the formation of a Board of Visitors.

Articles 43, 44, 52, and 53 deal with the personnel. The personnel of Canadian institutions is not up to the standard set by the international rules. Your Commissioners have made recommendations regarding the selection and training of personnel in chapter XXX of this report.

Articles 45 and 46 deal with wardens, who, it is recommended, should live on the prison premises and speak the language of prisoners native to the country in which the prison is located. It also deals with qualifications of deputy wardens. The provisions of these articles are observed in our penal system.

Article 49 deals with education. Observations have been made on this matter in dealing with article 28.

Article 50 deals with the supervision of female prisoners. It is observed in our penal system.

Article 51 deals with the use of firearms and the application of force. The provisions contained in this article have been grossly violated in Canadian penitentiaries in several instances. These have been made the subject of extensive observations in another part of this report.

Articles 54 and 55 deal with assistance to liberated prisoners. Up to the present time this most important phase of the penal system has only

been taken care of by private and charitable associations, and the recommendations contained in these articles have not been followed by our authorities. Your Commissioners have devoted a special chapter to the subject,¹ and have recommended that the state should henceforth take an active part in this work.

As previously mentioned, a copy of these rules is included in the documentary evidence possessed by the Commission and will be placed at the disposal of those who are to be entrusted with the supervision and management of our penal system for their reference and study.²

¹ Chapter XXI.

² Exhibit 671A.

CHAPTER XIV

CRIMINAL LAW AMENDMENTS

The Canadian Bar Association has repeatedly expressed its views as to the necessity of a complete and thorough revision of the Criminal Code. The following extract, taken from one of the reports of the proceedings of the association, concisely states the case for such a revision:

“ Since 1892, the Code has been amended year after year, here and there, something added to one section, something taken from another, with many entirely new sections and even new statutes of a criminal nature added. One is reminded of an ancient edifice to which additions have been made, planned by many architects and carried out with little regard to the appearance of the completed structure. The so-called revision of 1906 was a consolidation rather than a revision. We therefore recommend that representations be made to the Minister of Justice urging upon him the necessity of a complete revision. . . .”

In a special report regarding the Revised Statutes of 1927, the commission appointed to revise the public general statutes of Canada dealt at length with the Criminal Code, its history, and its provisions. The committee made special comment on the extensive jurisdiction conferred upon the police and stipendiary magistrates, and expressed the desirability of having all indictable offences tried by judges or magistrates having a trained knowledge of legal principles, legal procedure, and the rules respecting the adaptability of evidence in courts of justice. Your Commissioners have not considered themselves required by the terms of the reference to make any examination of matters involved in a general revision of the Criminal Code or amendments to the criminal law. It is too vast a subject to be attempted here, but the criminal law will have to be amended to provide for the recommendations of this report. Certain matters, however, have been drawn specifically to our attention and, we believe, come directly within the scope of the reference.

Vagrancy

The definition of vagrancy contained in section 238 of the Criminal Code is derived from the English Vagrancy Act of 1824. Difficulty arises under the present statute in interpreting the words “ no visible means of support.” We suggest that consideration be given to the adoption of the provisions of the Vagrancy Act introduced in England in 1935.

Time for payment of fines, and imprisonment for non-payment

The attention of your Commissioners has frequently been drawn to the large number of persons who are annually committed to jail for non-payment of fines. The number shown by the Canadian Criminal

Statistics for 1936 to have been sentenced to jail with the option of a fine was 9,593, but statistics are not available to show how many of these served sentences in jail.

Under the provisions of the Criminal Justice Administration Act, passed in England in 1914, the court is obliged to allow time for payment of fines and for investigation of inability to pay.

During the five years ending in 1913, the average number of persons in England and Wales sent to prison annually for default in payment of fines was 83,187. For a similar five year period ending in the year 1930 the average number of persons admitted to prison for non-payment of fines was 12,497. While the difference may not be entirely accounted for by the operation of the statute, it is no doubt largely responsible for the results. The matter was the subject of an extensive investigation and report by a departmental committee in England in 1934. The report resulted in the enactment of the Money Payments Act (Justices Procedure Act) of 1935. The Act makes further provision for the investigation of the means of the defaulter before imprisonment and the supervision of the defaulters when time is allowed for payment. Supervision of defaulters under 21 years of age is made obligatory, except where the court is satisfied that it is undesirable or impracticable. The statute provides that no one is to be sent to jail for non-payment of a fine unless it can be shown that he might reasonably be expected to pay such fine. This Act came into force on January 1, 1936, and the results of its first year of operation are shown by a substantial reduction in imprisonments for non-payment.

The following statement was made by the Home Secretary, Sir John Simon, in the English House of Commons, on February 4, 1937:

“The number of committals to prison in default of payment of moneys during 1935, as compared with 1936, were as follows:

| Number of persons imprisoned— | 1935 | 1936 |
|---|--------------|---------------|
| (1) In default of payment of fines.. . . . | 10,825 | 7,424 |
| (2) For failure to pay sums due under wife maintenance orders.. . . . | 2,324 | 1,876 |
| (3) For failure to pay sums due under affiliations orders.. | 1,300 | 859 |
| (4) In default of payment of rates.. . . . | 2,118 | 1,464 |
| | <hr/> 16,567 | <hr/> 11,623” |

Your Commissioners recommend that the principle embodied in these English statutes should be introduced into Canada.

Imprisonment for non-payment, when the convicted person has not the means or ability to pay, is, in fact, imprisonment for poverty. The injustice of such a law is patent. The poverty-stricken man is punished more severely for the commission of the same offence than the man with means. Your Commissioners are of the opinion that many recidivist criminals often receive their first education in crime upon being committed to prison for non-payment of fines.

Sale of offensive weapons

The sale of fire-arms and other offensive weapons is much more freely permitted here than it is in England or many of the European

countries. Your Commissioners are of the opinion that the sale and possession of offensive weapons should be drastically restricted by law and placed under the direct supervision of the Government. The penalties provided by the Criminal Code, especially those for breaches of section 116, should be made more severe.

Appeals in criminal cases

It has been pointed out to your Commission that indigent accused persons who have been found guilty have no means of access to the Court of Appeal because they are unable to provide funds to pay for the transcription of the evidence. Although no fees are exacted for criminal appeals, except in the province of Quebec where an inscription and factum fee is charged, the cost of providing a copy of the evidence is often prohibitive. Your Commissioners are of the opinion that provision should be made for some form of application for leave to appeal to the Court of Appeal *in forma pauperis*.

Public defenders

The question of appointing public defenders in criminal cases has repeatedly been brought to the attention of your Commissioners by social welfare and other societies. It has also been the subject of serious study by a special committee of the Canadian Bar Association, although this committee did not make any resulting recommendations. It may be added that the appointment of public defenders, being a matter respecting the administration of justice in the provinces, is one of provincial concern.

The question of public defenders was given consideration in England in 1921, and a bill was introduced into the House of Commons to deal with it, but the measure was not enacted. According to information received by a committee of the Canadian Bar Association, the English Poor Prisoners' Defence Act of 1923, which does not apply to magistrates' courts, has not been found satisfactory in application.

In six of the states of the United States of America, provision has been made for the appointment of public defenders, and in 16 states other provision has been made for the defence of indigent accused persons.

This matter is one for those charged with the responsibility of the administration of justice in the provinces to consider. Whatever action may be taken, your Commissioners are strongly of the opinion that no course should be adopted that will divest, or tend to divest, crown prosecutors of their duty to the accused as well as to the state. In British countries the crown prosecutor is regarded as a semi-judicial officer of the court, who is not called upon to "win a case," but merely to present to the court the relevant elements affecting the charge against the accused.

Anomalies of punishment

Frequent representations were made to your Commission, both within and without the institutions, in all parts of Canada, as to the lack of uniformity in judicial sentences for the same or similar offences. There

is undoubtedly some ground for this prevalent complaint, due in part to idiosyncracies of many magistrates and judges in respect of certain criminal offences, and in part to differences in knowledge, experience and judgment of those administering the criminal law. Your Commission is of the opinion that discretion in the imposition of punishment in individual cases should not be lightly interfered with, and that the adoption of suggestions made in this report as to inquiry before sentence, probation, conditional release, etc., will tend to minimize the number of well-founded complaints.

Your Commission is of the opinion also that provisions in the criminal law imposing minimum penalties for certain offences, thus fettering the judicial discretion of the trial judge or magistrate in individual treatment of special circumstances, is inadvisable. For example, a minimum one-year term of imprisonment is imposed as punishment for stealing an automobile, and three years for theft of a postal letter.

Fingerprinting and photographs

The right to take fingerprints and photographs of accused persons is a very necessary provision of the law and is of manifest assistance to the authorities in the detection of crime. Strict care should be taken to prevent any abuse of the provisions of the statutes affecting this matter.

An accused person who has been honourably acquitted in the courts should not be compelled to suffer the lifelong indignity of having his, or her, fingerprints or photographs filed in the police records of the city in which arrested, as well as with the Royal Canadian Mounted Police at Ottawa. It may often happen, however, that, although acquitted on a specific charge, the accused may yet be a dangerous character entitled only to the type of verdict that is to be found in Scotland, but not in our law, "not proven." In these cases the fingerprint records and the photographs should remain in the possession of the authorities, but there are cases where the acquittal has been a complete exoneration, both as to facts and law, and the accused is, in the opinion of the presiding judge, innocent beyond all doubt. There are also cases where the arrest has been the result of malice.

All police officials do not take fingerprints and photographs of all persons arrested, even when for indictable offences. Others do so in the most trivial cases. At the present time, the records of the Identification Bureau are never destroyed. Your Commissioners recommend that an amendment be made to the Identification of Criminals Act to give to the presiding judge the power to direct destruction of the fingerprint records and photographs in cases where he finds the accused not guilty, and when he believes that it is proper that the fingerprints and photographs should not be retained.

Whipping

During the visits of the Commission to the different prisons in Canada they found that the instrument used in executing the sentence

of the court was not uniform. In the penitentiaries it is a standard whip of nine hard cords of twine. In two jails, Headingly Jail, Manitoba and Fort Saskatchewan Jail, Alberta, the whip was composed of nine thongs of leather, which, in Headingly Jail, was knotted. Your Commissioners believe that the instrument used in the execution of this sentence, which is provided by the Criminal Code, should be standard throughout Canada. The instrument used for corporal punishment in the penitentiaries is, in our opinion, sufficiently severe.

Place of execution

Representations have repeatedly been made to the Commission by municipal and provincial officials to the effect that one central place of execution should be provided in each province. Your Commissioners agree with this suggestion. It is highly undesirable that sheriffs and prison officials, who must come in contact with prisoners from day to day, should be charged with the duty of officiating at these executions, or that the execution should be carried out at a prison where equipment has to be installed from time to time as required.

PART II

CHAPTER XV

PREVENTION OF CRIME

POLICE SERVICES

The object of the criminal law is to preserve order in the community by providing sanctions for breaches of the rules of society where Parliament has determined that such breaches merit punishment. The law is so designed that the apprehension and detention of offenders will operate as a deterrent to others and prevent the repetition of offences by those who have already been apprehended.

The first principle of an effective administration of the criminal law is to provide for the efficient policing of the nation. The sanctions of law will not deter crime unless there is an ever-present consciousness in the mind of the potential law breaker that he will be brought to justice. The effectiveness of the nation's police is reflected in the number of violations of the criminal law that remain unpunished.

The sixty-first annual report of the Judicial Statistics Branch of the Dominion Bureau of Statistics shows that, in 1936, police statistics were collected from 161 cities and towns of a population of 4,000 and over. The aggregate population was 4,432,750. The total number of police in these cities and towns was 5,435, or one policeman to each 816 of population. In these municipalities, during the year 1936, 402,643 offences were reported to the police, 123,140 arrests were made, and 216,617 suspects were summoned. There were 340,617 prosecutions and 287,610 convictions. These figures refer to convictions for both indictable and non-indictable offences. Goods to the value of \$2,977,212 were reported to have been stolen and \$1,260,558, or 43 per cent, recovered.

The above figures indicate that, if the enforcement of the criminal law is to fulfil its purpose as a deterrent to crime, careful study must be made of the methods of policing the nation in order to effect a very definite reduction in the number of unsolved crimes in Canada. With this end in view we recommend:

- (a) That the appointment and discharge of police officers, and the administration of police departments, be entirely removed from the political arena;
- (b) That a definite system of training police officers, along the lines now followed in Great Britain, be adopted in all the provinces of Canada;
- (c) That criminal statistics be extended to show the number of indictable offences reported to the police, as well as the number of charges laid and the number of convictions.

Such annual figures would indicate to the authorities the vigilance and efficiency with which the country is being policed.

The prevalence of crime in the community bears some relation to the effectiveness of the criminal law. The increase in convictions for indictable offences per 100,000, from 109 in 1901 to 307 in 1935, does not indicate that the administration of the criminal law has been performing its full function in deterring offenders from committing crime. It is suggested that modern development of society has increased the opportunities for committing crime. Unless our civilization is to decline, the proportion of criminals to our population cannot be permitted to increase to the alarming extent it has done during the last thirty years. Considering the figures over the period of time mentioned, it must also be borne in mind that, prior to 1922, juvenile criminal statistics were included with the adult. Since 1922 the figures show adult convictions only.

STATISTICAL INFORMATION

Your Commission attempted a statistical study of the prison population of Canada with a view to making an analysis that would establish certain conclusions in respect to the cost of crime in the Dominion of Canada, the economic loss by reason of inefficient administration of the law, the results of efficient and inefficient policing, the cost of maintenance of prisoners in the respective prisons throughout the Dominion, the causes of crime, and the results of experiments which have been made in respect to juvenile delinquency, adult probation, ticket-of-leave, and other methods of treating prisoners. We found the officers of the Dominion Bureau of Statistics very efficient in the performance of their duties and willing to co-operate with the Commission in every respect.

Without any reflection on the officers of this branch, we find that there is a great lack of uniformity in the compilation of statistics respecting crime in Canada; so much so that it would be dangerous to draw definite conclusions from the present statistical material. Your Commissioners are of the opinion that there should be a close co-operation between the Prison Commission, herein recommended, and the Bureau of Statistics, with a view to formulating definite policies in regard to the compilation of statistics and definite principles of gathering such statistics, which would be observed by all authorities throughout the Dominion. It is imperative that accurate statistical information should be available for the study of such matters as the growth or decline of juvenile delinquency, recidivism, the success or failure of probation, ticket-of-leave or parole, and other kindred matters. If, for example, the recommendation, herein contained, to establish an adult probation system, is put into effect throughout Canada, statistics should be compiled to show the number placed on probation and, through the Criminal Investigation Bureau, records should be kept and reports made to the Bureau of Statistics of those who violate probation. This would ensure that reasonably accurate information would be available for any subsequent study of the success or failure of adult probation as a whole, or the reason why, due to local causes, it may appear to succeed in one municipality and to fail in another.

Your Commission endeavoured to secure reliable information in regard to the cost of policing the nation. It was comparatively easy to obtain the cost of the federal police, the provincial police, and the municipal police in the larger centres, but further than this we were unable to go. It is apparent that knowledge of such matters is essential to a well organized penal system.

Your Commission endeavoured to obtain reliable information in regard to juvenile statistics, with a view to determining the result of the treatment of juvenile delinquents in respective districts. This information was found to be unreliable by reason of the fact that juvenile court judges had different methods of keeping their records. Some judges record every case brought before them and show how it has been disposed of, while other judges treat many cases as consultations only and make no record of them. The result, from a statistical point of view, is that, when complete records are kept, juvenile delinquency is shown to be much greater per capita than when partial records only are maintained.

We are strongly of the opinion that crime in the Dominion of Canada is a matter of great economic consequence and, if the Prison Commission, which is to be charged with the responsibility of administering the prisons of the Dominion, is to perform its full function, it must institute and maintain a continuous study of all the problems affecting criminology and penology. In order that this may be done, it is of vital importance that statistical records, which are reasonably accurate and designed and prepared for the purposes of such a study, should be available. In every case, provincial and municipal authorities should be required to keep their records in a uniform manner in order that, as far as is possible, the information supplied by the different districts will be comparable.

The fullest information should be available to show the cost of administering the penal laws in all their aspects. The cost of maintenance of prisoners should show a proper charge for interest on the investment occasioned by the acquisition of property and the erection of buildings, and a proper charge for depreciation. It is important that the public should be fully informed, not only of the cost of arresting, prosecuting, maintaining, and supervising prisoners, but of the true total expenses, embracing all elements involved in their custodial care.

PREVENTION OF JUVENILE DELINQUENCY

Under the present division of jurisdiction in the Dominion, the question of juvenile delinquency and the prevention of crime among children and adolescents is a provincial matter. Nevertheless, it is also a matter of the utmost importance to the federal authorities.

There is no panacea for crime, and your Commissioners are aware that, even if all their recommendations were to be effectively put into practice, crime would still exist, because criminogenic forces are complex, and neither easily diagnosed nor readily susceptible to treatment. While heredity undoubtedly has an influence in forming a criminal personality, yet it has been discovered by means of expert case work that the greatest

of all influences is that of environment in early life. If society will devote its best efforts to correcting the factors which influence toward crime, and to removing pernicious influences from young children and adolescents, it will destroy incipient criminality before it has gained resistant strength, and will thus succeed in limiting crime at its source, with a consequent saving of money and in humanity. The discovery and treatment of "problem children" should be effected before they have become seriously delinquent.

Professor Sheldon Glueck states the case as follows:

"The policy of controlling fires by merely putting out the flames and sitting back to await more fires is rapidly being abandoned as shortsighted and wasteful. Study of the causes of fires and the development of preventive programs are becoming essential activities of the modern fire department. In relation to the control of delinquency and crime, however, society has not progressed much beyond the stage of putting out the flames. It has waited for violations of law and then bends its efforts to arrest, pursue and punish the offenders without giving much thought to the elimination of the forces that produce them and continue to produce thousands like them."¹ . . .

The public must be educated to understand that the most effective method of dealing with crime is that which arrests the development of criminal careers by the prevention of juvenile demoralization.

The problem of ascertaining the sources of juvenile delinquency is a difficult one, because it involves "the interplay of biologic handicaps, human subtle motivations, and often unmeasurable social and economic factors. It is usually very difficult to assign proper weight to any single factor or group of factors in the casual complex. . . . It is often very difficult, also, to determine which factor . . . should be given primacy."¹

It is far beyond the scope of this report to discuss or analyse the different causes of crime. For our purposes the enumeration of such causes will suffice.

Whether crime has its sources in heredity or in environment, either in, or outside, the home, it is, nevertheless, an undeniable fact that the influences of the home, the church, and the school are still the most potent factors in discovering the danger and applying the necessary remedies. Parents, teachers, and clergymen are still the best mentors in moulding young lives.

The present slackness of the home and the apparent apathy of the church and school authorities require correction. It is essential that these agencies should assume their full responsibility and that the services of the state or social agencies should be utilized primarily as complements to the activities of the home, the school, and the church.

In Canada, no serious statistical study to discover the proportionate responsibility for juvenile delinquency of environmental conditions in the

¹ "Glueck & Glueck"—Preventing Crime, McGraw-Hill, N.Y. & Lond., 1936.

home appears to have been made. In England, however, it has been found that the coefficients are as follows: from defective discipline .55; from vicious homes .39; from defective family relationships .33; and from poverty .15.¹

Defective Discipline

Home discipline may be too strict, too lenient, or virtually non-existent. Overstrictness may be the cause of delinquency in a small proportion of such cases, where excessive punishment results in swift and open retaliation by physical assault or instant flight from home, or in devious ways and hidden mental processes involving theft, embezzlement, and dissolute conduct. Laxity in discipline is more common. It may result from a physical defect, or ill health, or feebleness of mind or morals. Sometimes the parent may be too dull to exercise due vigilance, too ignorant to adopt effective measures, or too emotional to preserve strict justice. Finally, there may be no attempt at discipline whatsoever.²

Vicious Homes

Delinquency among children may be the result of mute connivance or deliberate training by a criminal parent, but this is extremely rare. Parental alcoholism is often the cause of delinquency, for excessive drinking by the parents may exert its influence in various ways. The drunkard's instability of temperament may reappear in the children. The drunkard's example is demoralizing to a child during its impressionable age. Money is squandered; parental discipline is neglected; the family is despised by the neighbours; and a perpetual life of discord, irregularity, and passion is created and sustained. The parents abuse and maltreat both their children and each other; indecency of speech and behaviour becomes rife; and violence of word, act, or feeling is apt to induce a deepseated revulsion in the growing girl or boy.³

The conditions that are present in a vicious home may be of the most diverse kind, however, and intemperance is but one. Crime, brawling, bad language, irregular unions contracted by the parents, immorality, heartless or brutal usage, all tend, by progressive effect upon young and sensitive minds, to instill a sense of injustice, of indignation, wretchedness, and apprehension, so that, when the child grows more critical and independent, he finds himself at length impelled to seek relief or distraction by some violent deed of his own. He may lose all self-control and brutally strike an offending or unoffending party. He may hand on the maltreatment to one of his own tiny brothers, hurting as he has been hurt, cursing as he has been cursed. He may seek to escape it all by refusing to live with his family, perhaps supporting himself by theft or other immoral means. Many of his reactions are obscure and indirect.⁴

¹ Burt—*The Young Delinquent* (page 101), Lond., 1931.

² *Ibid.*, pages 96-98.

³ *Ibid.*, page 99.

⁴ *Ibid.*, pages 96-98.

Defective Family Relationship

Sometimes the occurrence of delinquency in a home is due to the presence of a foster-parent. The child who does not make one of a normal family always labours under a heavy disadvantage. The ordinary child in the ordinary home is a member of a small and self-contained society, cared for by the united efforts of both father and mother, whereas the child in a home where defective family relationships exist is devoid of all such benefits. He leads an existence, warped, one-sided, incomplete, and lacks the most natural check against lawless behaviour.¹ Throughout our investigation it has been repeatedly stated that broken homes are the chief cause of juvenile delinquency.

Poverty

Another cause is poverty, resulting in over-crowding, semi-starvation, and the absence of facilities for recreation at home. As the figures stated will show, however, this is but a minor influence.²

The causes of delinquency outside the home are mostly to be found in the character of the street and neighbourhood in which the child lives. They are composed of the influences that affect him beyond the circle of his family life; his companionships at school, or at work, or during his leisure hours. Such influences may be direct or indirect. The companions may be of the same age or adult companions. There is no space in this report to examine the details of such influences, but they have been brought forcibly to the attention of your Commissioners.

Among the most important and direct causes of juvenile delinquency is the demoralization of the present day. The slackening of religious influences, the loosening of family ties, licentious pictures, publications, and magazines which glorify immorality or crime, are incitements to imitation by youths and juveniles. Your Commissioners believe that it is the imperative duty of the authorities more strictly to enforce section 207 of the Criminal Code, which prohibits the sale or exposition of any object tending to corrupt morals.

In the following chapter, your Commissioners deal with the functions of the juvenile courts, which may play so important a part in the reclamation of young delinquents. The problem with which we are concerned at this point is that of keeping juveniles from becoming delinquent and from reaching the juvenile court. When they have reached the courts their future is already in much jeopardy.

Children must have an outlet for their energies and, if they do not find that outlet in normal ways, they may often be led into delinquency. The "dangerous hour" for children and adolescents is the period between the close of school and bedtime. If nothing is provided for them during that time they will often be led into bad company and mischievous activities. The most experienced students of this problem have come to the conclusion that the community must contribute toward

¹ Burt—*The Young Delinquent* (pages 93-95), Lond., 1931.

² *Ibid.*, page 92.

filling these leisure hours, and give the children and adolescents a normal outlet for their energies. The most effective crime prevention is that which has resulted from co-ordinated community programs, such as the boys' or girls' clubs and other recreational activities. In order to make such a program effective, a preliminary survey of the region to be served must be made in order to determine its particular problems and influences. The public must be educated in the aims and methods of co-operative effort designed to reduce delinquency and crime and to enrich the material and spiritual resources of the community.

Citizen groups, civic organizations, welfare associations, police departments, schools, churches, children's aid societies, service clubs, etc., should be urged to formulate a co-operative and comprehensive plan into which they will be able to direct their activities without duplication. It is important that any scheme that is evolved to combat juvenile delinquency should be based on an adequate foundation of facts. Examinations and reports made by doctors and psychiatrists are particularly important, because every measure that helps to make the children physically and mentally healthier is another weapon in the struggle against crime. Such psychiatrists and medical men should be provided either by provincial guidance clinics or by co-ordinated community effort. As is later pointed out, in the more thickly populated centres of Canada the services of psychiatrists have been obtained to advise the juvenile courts. In examinations by doctors and psychiatrists, physical and mental handicaps, maladjustments which might lead to misconduct, and other defects, will be quickly detected and can be promptly attended to. In England and in Belgium, great importance is attached to such examinations, and your Commissioners are fully convinced of their beneficial results.

Record forms and case sheets¹ compiled from these examinations should form the basis of any co-ordinated community program. If community councils are formed for the better co-operation of community groups, conferences or meetings of such councils would be in a position to direct and conduct surveys to discover the groups of children who most urgently require attention and the areas most in need of community effort. Plans can then be formed for character building programs to occupy the leisure hours of juveniles of those groups or areas.

Your Commissioners are not aware of the existence of any such co-ordinated community programs in the Dominion of Canada, but they have been impressed by the work of the boys' clubs in different cities they have visited. These clubs provide for the occupation of the children during their leisure time and the absorption of their energies in instructive and interesting pursuits, which not only occupy time which might otherwise be put to vicious or antisocial uses, but which also constitute an entering wedge to the confidence of youths, exerting an influence for good in other than recreational activities.²

¹ A sample form is given on page 23 of Burt's "Young Delinquent," Lond., 1931. Another type of form is given in "L'Office Belge de la Protection de l'Enfance" by Isidore Maus, Louvain, 1927. (Exhibit 606.)

² A very interesting report on the constitution and operation of a Community Council in Los Angeles is given in "Preventing Crime" by Glueck and Glueck, N.Y., 1936.

The vital importance of boys' clubs has been recognized in the United States by the formation of the Boys' Clubs of America, Inc. Sanford Bates, former Director of Prisons in Massachusetts, and former Director of the Bureau of Federal Prisons at Washington, has been retained as executive director of this association. The Hon. Herbert Hoover, ex-President of the United States, is the chairman of the board of directors, and a campaign for funds, with an objective of \$15,000,000, has just been launched.

In establishing boys' clubs, community councils or conferences, in which civic organizations, welfare associations, police departments, schools, churches, service clubs, and other social or community organizations might co-operate, the first consideration should be the choice of location. It is necessary for boys' clubs to reach out into those sections of the community where, according to juvenile court records, the greatest delinquency exists, and where recreational facilities are most apt to be inadequate. No elaborate or expensive equipment is needed to begin with—an old box car in a vacant field or a shack built of packing cases is often sufficient. The important feature is to provide supervised educational, vocational, and recreational activities for the boys under trained leadership. In summer, outdoor games may be organized, and, in winter, indoor activities should be provided and a skating rink maintained. The object is to establish a natural meeting place for the boys as a substitute for the street corner, and one where boy gangs can be converted into play groups directed toward wholesome objectives.

Your Commissioners wish to emphasize again that the most effective method of dealing with juvenile delinquency is by prevention. It costs less than \$10 a year for preventive work which may keep a boy or a girl from the penitentiary. If the child eventually becomes the inmate of a penitentiary, it will cost \$744.60¹ to keep him there for one year. Boys' clubs are at present financed by the "Federated Charities," the service clubs, and private individuals, but it would obviously pay the state to assist them generously. It is more economical to save children than to punish criminals. Such institutions as the National Federation of Boys' Clubs, the numerous cities' boys' clubs, the Y.M.C.A., La Jeunesse Ouvrière Catholique, the Knights of Columbus, the Big Brothers' and Big Sisters' Associations, with their great number of voluntary workers, are doing invaluable work in the prevention of crime and should be assisted and encouraged to the utmost by the state.

The Canadian Government voted \$1,000,000, in 1937, to provide for development and training projects for unemployed young people.² By a bill assented to on the 10th of April, 1937, chapter 44, 1 George VI, the Government was authorized to enter into agreements with any of the provinces respecting the alleviation of unemployment conditions by way of loan, advance, or guarantee, for the purpose of assisting the provinces to pay their share of the expenditure for such purposes to an amount

¹ Figure, exclusive of overhead charges, given in the 1937 report of the Superintendent of Penitentiaries.

² Vote No. 308 Special Supplementary Estimates, 1937.

not exceeding in aggregate the maximum amount which might be paid by the provinces for its share of the expenditures. Under this Act, the province of Quebec secured the assistance of the federal Government to the extent of \$15,000, for a project under the control of the Provincial Secretary in co-operation with private organizations, designed to provide recreational and group activities and physical education with the object of maintaining the morale and the fitness of unemployed young people in urban areas. The provincial Government has voted a like amount, so that altogether the sum of \$30,000 is being devoted to the support of organizations involved in the project, which is entitled "Leisure Time Activities."

La Jeunesse Ouvrière Catholique (The Catholic Young Workers), of Montreal, under the direction of Father Roy, O.M.I., has taken advantage of this aid to plan a most interesting program, "Les Loisirs," which has enlisted the support of the schools and the municipal authorities. This association has secured the loan of municipal swimming pools, which boys and girls of the underprivileged class visit regularly; it has secured the use of the schools, where vocational programs are given; the quarters of athletic associations, where physical culture is taught; halls, where moving pictures are given, and there are at present 40,000 members enrolled in this association who have been given an opportunity of instruction and recreation.

Other organizations, such as the Y.M.C.A., have taken advantage of the grant to do much useful work, and the province of Quebec has secured grants for a mind-training project, for vocational guidance and occupational training, women's courses, rural and agricultural training, and forestry training. The province of Ontario has obtained a grant for forestry training and conservation projects, technical training for mining, training in household work and specialized services, rural and agricultural training, farm placement and training, women's rural homecraft courses, men's district and agricultural courses, parks and nursery gardening courses, apprenticeship and leadership training, and urban technical occupational training.

Your Commissioners believe that this movement of co-operation between the federal and provincial Governments is commendable, and that it will be of help, not only in preventing crime, but in training and fitting youth for useful citizenship. We are of the opinion that activities, made possible through such grants and such co-operation, should be planned and carried out through the co-ordinated efforts of social welfare associations and other voluntary community organizations.

CHAPTER XVI

JUVENILE COURTS, FAMILY COURTS, AND TRAINING SCHOOLS

JUVENILE COURTS

During the present century, there has been a constantly increasing recognition by public opinion of the fact that, in a wise administration of justice, children should not be dealt with in the same manner, or according to the same standards of trial and punishment, as adults. The civil courts of justice have always recognized the incapacity of infants. On the other hand, the criminal courts have, until comparatively recently, treated the child over seven years of age as competent to commit crime and to be tried and punished in the same manner and according to the same principles as a mature adult.

In England, in the year 1844, there were 11,348 persons in prison who were between the ages of ten and twenty, or one in 304 of the total population of that age. In 1849, 10,703 persons under the age of seventeen years were sentenced to imprisonment or transportation.¹ From that date until the year 1908 public opinion underwent a gradual change, until it became recognized in principle that children could not be successfully treated by trial and punishment in the same manner as adults. The state has now recognized that the substitution of training and reformation was a wise alternative to prison sentence.

The recent development of this change in public opinion was forcibly brought home to your Commissioners by a prisoner who came before them during their sittings at Kingston Penitentiary. Now fifty-two years of age, he had, according to his record, been sentenced at the age of eleven to serve three years in Dorchester Penitentiary. The sentence had been imposed for theft by the Chief Justice of one of the oldest provinces of Canada. It is not astonishing to find that this prisoner has been convicted twenty-five times since his original sentence, nor that he now appears to be quite hopeless of reclamation.

Between 1840 and 1908, both in Great Britain and Canada, there was a consistent development of reformatory schools for young persons, but it was not until 1908 that the principle involved in the trial and punishment of children, as expressed in the Juvenile Delinquents Act, was embodied in legislative enactment. The Children's Act was passed in Great Britain during the same year. The Canadian Act is based, partially on experiments in Great Britain and the United States, and partially on the experience of administering the legislation regarding children's aid societies in Ontario.

In 1894, the Ontario children's aid societies first obtained a federal enactment providing that trials of youthful offenders under the age of sixteen should be held *in camera* and that their incarceration prior to sentence should be separate from older prisoners charged with

¹ Report of Departmental Committee on Treatment of Young Offenders. (Page 7) Lond., 1932.

criminal offences and from all persons undergoing sentences of imprisonment. While this measure applied to the whole Dominion, when a boy or girl, charged with an offence in Ontario was under thirteen years of age, the court was required to give notice to the Children's Aid Society before dealing with the case, and to allow the society an opportunity to investigate and report on the needs of the child and on its home environment. Power was also given to the court to direct, in lieu of sentence, that the child should be placed in a foster home or in an industrial school. This legislation continued in force until the enactment of the Juvenile Delinquents Act of 1908, which was revised in 1929 as the result of a round-table conference of representatives of the courts, industrial schools, and social agencies working in this field.

Under the provisions of the British North America Act, the Parliament of Canada is given power to declare juvenile delinquency to be a crime, but it has no jurisdiction to legislate in respect to the civil status of delinquency except as it might be ancillary to legislation respecting criminal law.

The provisions of the Juvenile Delinquents Act may be put in force in any province by proclamation, after that province has passed an act providing for the establishment of juvenile courts, or the designation of any existing courts to be juvenile courts, and after it has provided detention homes for children. Provision is also made to secure the benefits of the federal Act for any specific city, town, or area, in any province in which legislation has not been enacted as a provincial measure. In this case, it is necessary for the Government of Canada to designate some judge or magistrate presiding over a provincial court to be the juvenile court judge. The Act also provides that a child within the meaning of the Act is a boy or girl apparently, or actually, under the age of sixteen years. In any province, or provinces, which the Governor-in-Council by proclamation may direct, however, "child" means any boy or girl apparently, or actually, under the age of eighteen years. Such a proclamation may be made to apply to boys only, or to girls only, or to both boys and girls.

The Canadian Welfare Council, in an ably prepared brief submitted to the Commission, reviewed the present situation in respect to the administration of the Juvenile Delinquents Act in Canada, as follows:

"The situation which has developed under these admittedly compromise arrangements cannot be regarded as wholly satisfactory in that a most uneven development of the special services contemplated under the Federal Act has taken place in the different provinces and even within areas of the same province.

In *Quebec*, special legislation embodied in the Revised Statutes of 1925¹ established, for the City of Montreal, a court of record called the Juvenile Delinquents Court, the jurisdiction of which might be extended to any territory on the Island of Montreal, when satisfactory arrangements had been concluded with the municipalities

¹ Chapter 145, Division VI, Sections 252 to 266.

concerned, for the establishment and maintenance of the Court and of detention homes and other facilities, as defined in the Juvenile Delinquents Act of Canada. The judge was to be appointed and his salary payable by the Province and the Courts, so constituted, to have the powers conferred on them by competent jurisdiction, presumably by the Juvenile Delinquents Act.

Thus, the benefit or privileges of a Juvenile Court under present Quebec legislation, in the terms of the Juvenile Delinquents Act, is only available, under prescribed conditions, to any municipality on the Island of Montreal.

In *Nova Scotia*, the Province enacted special legislation¹ providing for the establishment of Juvenile Courts within defined limits. Under this legislation Juvenile Courts have been set up in the City of Halifax and the Counties of Pictou, Cape Breton, Hants, King's and Colchester.

In the Province of *New Brunswick* there are no legislative enactments, actually in force, providing for the establishment of Juvenile Courts.² There is but one Juvenile Court of a sort in existence in the City of Moncton where, utilizing section 43 of the Juvenile Delinquents Act, provision was made for hearings under the Juvenile Delinquents Act of Canada by the Magistrate of the Moncton Police Court, by special proclamation of December, 1929.

Where there is no provincial enactment in *Prince Edward Island*, the Juvenile Delinquents Act has been proclaimed by Federal proclamation, under Section 43, in both Charlottetown and Summerside, while the Lieutenant-Governor may appoint commissioners to hear and determine complaints against juvenile offenders apparently under the age of eighteen years, under the Children's Protection Act.

In *British Columbia*, a provincial measure, enacted first in 1918, carries practically the same clause as the Ontario measure and provides for the establishment and proclamation of Courts throughout the Province as may be decided. A special committee, appointed by the Attorney General of the Province, has recently made submissions to the Provincial Government of British Columbia on the whole system and set-up of Juvenile Courts in that Province.

In *Manitoba*, a provincial system of Juvenile Courts is set up under relevant sections of the Child Welfare Act.³ Under this legislation Juvenile Courts covering the entire area of the Province have been set up for the Winnipeg area, Brandon and the eastern judicial district, Dauphin and the northern judicial district, while the probation system in connection with these Courts is provincial, with a Chief Probation Officer, provincially appointed, supervising local services.

¹ R.S.N.S., Chapter 166, Part 1, Sections 2 to 7.

² The Children's Protection Act of 1930, containing a most comprehensive section on this subject, has not been proclaimed yet.

³ 1936, Chapter 6, Part II.

In *Alberta*, a provincial enactment¹ provided for the naming of Commissioners, appointed under the Children's Protection Act of the Province, as Judges of the Juvenile Court for any place to which they were appointed, while Police Magistrates and District and Supreme Court Judges were to be ex officio Juvenile Court Judges in their respective districts, unless they were unwilling so to act. Where there was no Commissioner, no other person might act, except by his written request, or on the request of the Attorney General, or the Superintendent of Neglected Children for the Province. Upon the request of the latter, any Justice of the Peace in the Province might also act under this special legislation.

In *Saskatchewan*, the enactments governing Juvenile Courts are contained in the Child Welfare Act,² by which the Lieutenant-Governor in Council may appoint special magistrates to act as Juvenile Court Judges, with salaries presumably paid by the Province. One Juvenile Court Judge has been so appointed, with a Court in Regina but empowered to hold sessions of such a Court in any locality in the Province, or, in any case, on request of the Superintendent of Child Welfare.

The Province of *Ontario* enacted a provincial measure (R.S.O. 1927, Chapter 33) providing for the establishment of a Juvenile Court in every city, town, and county in which the Federal Act had been or might be proclaimed. The development of such Courts within Ontario under this legislation has been uneven, however, and at the present time such Courts exist in eighteen cities, towns, counties or districts, covering fifty-two per cent of the population, and therefore leaving over forty-seven per cent of the population, and by far the greater geographical area of the Province, without the benefits of this special legislation of service. Juvenile Courts do exist, however, in the six largest cities in the Province."

At the request of the provinces of Manitoba and British Columbia, a proclamation has been issued under the provisions of the Act, raising the jurisdiction of the juvenile court to include young persons up to the age of eighteen years.

The underlying principles on which the Juvenile Delinquents Act is based may be stated as follows:

1. A child ought not to be treated as an adult even though it breaks the law. Although a child over the age of seven years is regarded as capable of committing crime, it ought not to be held as strictly accountable for its actions as an adult;
2. Incarceration of children awaiting trial ought only to be permitted in detention homes properly arranged for the purpose;
3. Probation is a more effective method of dealing with juvenile offenders than imprisonment;

¹ R.S.A. 1922, Chapter 77.

² Statutes of 1927, Chapter 60, Part III.

4. Where probation fails, children ought to be detained in industrial or reform schools for education, training, and reformation, and not sentenced to prison for punishment;
5. Children put on probation ought to be under the supervision of specially trained probation officers. Where probation officers are not appointed, a voluntary committee of citizens should be available to assist and advise the court.

In the more thickly populated centers of Canada, where juvenile courts have been established, probation officers have been appointed and the services of psychiatrists to advise the court have been obtained. In these better organized courts, the probation officers, together with the psychiatrist, make an exhaustive study of the physical and mental condition of the child, its social back-ground, and all causes that may have contributed to its delinquency. They report to the judge of the juvenile court, and assist him in determining the proper treatment for the child. The information obtained in this manner is very useful, but it is a question whether this service should not be supplied by a child welfare clinic so that it might be extended to children without bringing them into the environs of a court. It is important, however, that this social service be available to the juvenile court.

It is of little avail to appoint any individual to the office of juvenile court judge unless he is able to secure proper advice and information.

The children's court, as at present organized in some countries, has many characteristics of a social clinic. It is called upon, not only to deal with children who have committed criminal offences, but also, in many cases, to advise the parents of children who tend to be uncontrollable how to improve their discipline of such children. Representations have been made to your Commission that the features of a social clinic ought to predominate in these courts and that, in a large degree, they should lose their characteristics as courts of justice, and forcible arguments have been advanced in support of this contention. It is true that in many instances the offences committed are trivial, and that the circumstances indicate neglect rather than any delinquency on the part of the child. On the other hand, there are serious cases to be dealt with, which must be treated with stern discipline, and where it is necessary for children to realize that the presiding officer in a children's court is a man or woman to be treated with wholesome respect.

There is also an important consideration emphasized in the report of the Departmental Committee on the Treatment of Young Offenders, which was presented by the Secretary of State for Home Affairs to the British Parliament in 1927. It is pointed out in this report that:

"It is very important that a young person should have the fullest opportunity of meeting a charge made against him and it would be difficult for us to suggest a better method than a trial based on well tried principles of English law. The young have a strong sense of justice and much harm might be done by any disregard of it."

The report also stated that:

"When the offence is really serious and has been proven its gravity should be brought home to the offender. We feel considerable doubt whether a change of procedure, such as described above, (the creation of social courts in which rules of procedure in criminal courts are not strictly observed) might not weaken the feeling of respect for the law which it is important to awaken in the minds of the young if they are to realize their duties and responsibilities when they grow older."¹

After careful consideration, your Commissioners are of the opinion that the following underlying principles applicable to the trial of all such cases should not be lost sight of in these courts. No person should be found guilty of an offence,

1. Without a formal charge having been prepared against him;
2. Without evidence on oath taken in the presence of the accused, where he has the right to be represented by counsel if he so desires;
3. A plea of guilty should not be accepted from a child unless the presiding officer has satisfied himself that the child understands the nature and quality of the charge that has been made against him.

With these reservations, which apply only to a portion of the cases that come before a juvenile court, we are of the opinion that these courts, in co-operation with social service agencies, may treat cases from the clinical point of view without losing, in contested and serious cases, any of the attributes of a court of justice. We do not think it is necessary in order to maintain these attributes that the presiding officer should impress those attending his court with undue dignity. In our opinion, gowns are unnecessary and ought not to be worn. We believe the courts can best be conducted without the presiding officer sitting on a raised dais characteristic of the ordinary courts of justice. He should preserve a dignified informality to gain, and maintain, the confidence of the child who comes before him.

We have given much thought to the title that should be applied to the presiding officer in a children's court. When the courts were first established in 1908, the title used in the Act and which is still used, was one imported from the United States of America where juvenile court acts were already in effect. The officer is known there as the "Judge of the Juvenile Court." In the United States of America, the term "Judge" is applied to the presiding officer in all sorts of inferior courts, but this has not been the case in British jurisprudence. The presiding officers having jurisdiction in the British inferior criminal courts have always been known as "Justices of the Peace" or "Magistrates" and the term "Judge" has been reserved for officers appointed to preside in the Superior and County Courts, where the officers appointed are trained in the law and

¹ Report of the Departmental Committee on the Treatment of Young Offenders, Lond., 1927.
55632—13

are accustomed to approach their tasks with a dignity and formality not consistent with the best functioning of a juvenile court.

We believe that the presiding officer of a juvenile court can best perform his duties if he is trained in the law. Such experience and training especially fit him to assume the peculiar responsibilities connected with this office. In any case, we do not believe that it increases his authority or dignity in the juvenile court to speak of him as a judge. The children know that he is not a judge in the ordinary conception of the term, and the community is inclined to look upon the assumption of such a title in a manner that does not increase respect for the office.

After careful consideration, with full realization of the extremely important work that these officials have to do and without in the slightest reflecting upon the manner in which they have applied themselves to their tasks, we have come to the conclusion that it would be in the interests of the office they hold, the effectiveness of their counsel and advice, and the promotion of respect among the children who come before them, if the appellation applied to them were changed in the statutes to "Children's Magistrate" or, in French, "Magistrat des Enfants." In court this officer should be addressed as "Your Worship" in English speaking provinces and "Votre Honneur," in the French language. He should not acquiesce in being called a judge unless he has been duly appointed a judge in another capacity.

Many complaints were made to the Commission that judges of the juvenile courts are often too lenient with those who appear before them. Instances have been cited to the Commission indicating that the records of many children show they have been found guilty in the juvenile courts on more than ten or twelve occasions before they have been committed to a training school.

Some juvenile court judges evidently consider it a mark of distinction to show a minimum record of commitments to training schools. If statistics were properly kept, however, the records of such judges would also show a very high proportion of breaches of probation among the children who have come before them.

While we concur in the opinion that every effort should be made to reclaim a child before it is committed to association with the difficult and problem children to be found in training schools, we are of the opinion that laxity on the part of the juvenile court judge in committing children to training schools when they ought to be committed has an unfavourable effect, not only on the child being dealt with, but also on the other children with whom he associates.

Many conflicting representations were made to the Commission as to whether the age limit of those to come under the jurisdiction of the juvenile courts should be raised throughout Canada to include young persons below the age of eighteen years. Your Commissioners are definitely of the opinion that the jurisdiction of the juvenile courts should be limited to children below the age of sixteen years. The methods of dealing with the children, and the characteristics of the court that should be applied to children of this age, are entirely different from those

which ought to be applied to young persons between sixteen and eighteen years. The problem of detention homes and training schools would be clearly aggravated, and, in our opinion, has been aggravated, where the age limit has been increased.

It is impracticable to have a complete method of segregation, and, on the other hand, it is injurious to the character of a delinquent boy of fourteen to be put in association with a delinquent of seventeen. We have been re-enforced in our opinion in this regard by the conclusions we have arrived at in respect to the treatment of adult offenders by an extended adult probation system and the treatment of young offenders in prisons. We are, however, of the opinion, that legal provision should be made to permit the judge or magistrate who is trying an offender between the ages of sixteen and eighteen, if he considers the accused to be a young person who might to his advantage be dealt with in the juvenile court, to deal with him according to the powers conferred under the provisions of the Juvenile Delinquents Act.

Some representations were made to your Commission to the effect that the law should provide for wider powers in inflicting corporal punishment on juveniles. This matter was given careful consideration by the Departmental Committee on the Treatment of Young Offenders herein referred to. The laws of England have wider provisions for whipping boys under sixteen than are contained in the laws of Canada. Females may not be whipped, but boys under fourteen may be whipped for any indictable offence except homicide. The punishment is limited to a maximum of six strokes with a birch rod, to be administered by a constable in the presence of an inspector or other officer of police of higher rank than a constable, and also in the presence of the parents or guardians if so desired. Boys under sixteen may be whipped, not only similarly to adults, but also for a large number of other offences specified in the statutes, and the number of strokes is in the discretion of the court. The Committee came to the following conclusions:

"We deprecate strongly any indiscriminate use of whipping. To the boy who is nervously unstable or mentally unbalanced the whipping may do more harm than good. The mischievous boy, on the other hand, who has often been cuffed at home will make light of the matter and even pose as a hero to his companions. We believe that there are cases in which whipping is the most salutary method of dealing with the offender, but as so much depends on the character and home circumstances of the boy concerned, whipping should not be ordered by a court without consideration of these factors and especially without some enquiry whether corporal punishment has been applied already, and, if so, with what result. In all cases there should be a medical examination. The law provides that the parent or guardian should have a right to be present when the punishment is administered.

If, as we recommend, whipping is retained, we see no reason why it should be limited to certain offences. Cruelty to animals

or wanton acts endangering the lives of others ought not to be excluded; but the character of the individual rather than the nature of the offence must be considered. Nor do we see any adequate grounds for discriminating between boys under fourteen and those between fourteen and seventeen. Subject to the safeguards suggested above we think it would be right to give the courts a discretion to order a whipping in respect of any serious offence committed by a boy under seventeen; but whipping should not be associated with any other form of treatment."¹

We are of the opinion that the conclusions of the British committee deserve careful study. It may be, however, that the safest course is for the officer presiding in the juvenile court to arrange with the parents of the child that any necessary whipping be administered with their consent, and in their presence, without the necessity of any sentence of the court.

As previously indicated, your Commissioners are of the opinion that a psychiatrist would be of inestimable value in dealing with children's cases. If the juvenile court system is to be extended throughout Canada, we strongly recommend that definite arrangements be made for the services of competent psychiatrists. This would not require the appointment of permanent officials. The services of experienced men connected with the various mental hospitals are readily available throughout Canada, and, by arrangement, these could make periodic visits to different centers for the purpose of giving assistance to welfare clinics and officers of the juvenile courts.

The probation officers connected with a juvenile court are scarcely less important than the presiding officer. It is of little value to bring a child into the juvenile court to be tried and dealt with by the presiding officer if he is released on probation without competent supervision. If this is done, the child is merely being sent back to associations and environment that have been largely to blame for his delinquency. This has been likened to the action of a physician in sending a patient who has contracted tuberculosis by reason of squalor and unhealthy conditions in his home, back to that same home, merely with instructions in hygiene, and without any proper medical supervision to see that the instructions are carried out.

As has been said in the chapter of this report dealing with adult probation, it is of the utmost importance that the probation officers attached to the juvenile courts should be men and women selected with the greatest of care and regard for their qualifications, and that they should be only such as have been specially trained in social service work. The adult probation officers and the juvenile probation officers should be under one direction in order that a consistent and orderly scheme of probation may be maintained.

FAMILY COURTS

In Canada, much consideration has been given by those interested in social service work to the possible extension of the *modus operandi* of

¹ Report of the Departmental Committee on the Treatment of Young Offenders, Lond., 1927.

juvenile courts, to all cases involving children and family life. In other jurisdictions, tribunals known as "Domestic Relations Courts" have been established. In Ontario, statutory provision has been made for conferring jurisdiction on juvenile court judges in respect to the administration of the several statutes which deal predominantly with matters affecting children, and provision has been made for setting up what is called a "Family Court."

In the cities of Toronto and Ottawa, jurisdiction has been assigned to the juvenile court judges to administer the following statutes:

- (a) The Children's Protection Act, R.S.O. 1927, Chap. 279.
- (b) The Deserted Wives' and Children's Maintenance Act, R.S.O. 1927, Chap. 184.
- (c) The Minors' Protection Act, R.S.O. 1927, Chap. 259.
- (d) The Parents' Maintenance Act, R.S.O. 1927, Chap. 185.
- (e) The Married Women's Property Act, R.S.O. 1927, Chap. 182, Section 14.
- (f) Sub-section (b) of section 238 of the Criminal Code. This section deals with the failure to maintain the family.
- (g) Clauses (a) and (b) of sub-section 3 of section 242 of the Criminal Code; these being the sections dealing with neglect to provide necessities for wife and children as a parent.
- (h) Sub-section (g) of section 242. Section 291 of the Criminal Code deals with an assault by husband upon his wife and by a wife upon her husband, and parents assaulting children.
- (i) The Children of Unmarried Parents Act, R.S.O. 1937, chap. 217, and the Adoption Act, R.S.O. 1937, Chap. 218.

The operation of this arrangement has been interrupted by a decision of the Ontario Court of Appeal, which held that a magistrate or juvenile court judge appointed by the Lieutenant Governor in Council is not qualified to receive jurisdiction to try matters ordinarily within the jurisdiction of the Superior Court or County Court judges, who must, under the provisions of section 96 of the British North America Act, be appointed by the Governor General. Following this decision, the Adoption Act, Children's Protection Act, the Children of Unmarried Parents Act, and the Deserted Wives' and Children's Maintenance Act were referred by the Governor General in Council to the Supreme Court of Canada for decision as to the power of the magistrates and juvenile court judges to perform the functions assigned to them in these statutes.

We are of the opinion that the principle underlying the establishment of the family court is sound, and that it is advantageous to have domestic matters, whether they affect the parents or the children, dealt with in such a court. It is important that these courts should be accessible and that domestic matters should be disposed of summarily. It is also important that these courts should not be given such wide and unlimited jurisdiction in respect to these matters as will virtually create them courts of superior jurisdiction. In our opinion, such a course would

deprive them of many of the advantages they enjoy as summary courts having social and clinical features. Matters that require wider jurisdiction than is ordinarily enjoyed by courts of summary procedure ought still to be left to the Superior and County Courts.

In the provinces other than Quebec (where there are no County Court judges) a division of jurisdiction might well be made. Less serious matters could be dealt with summarily by a magistrate, and more serious ones by a County Court judge on circuit. In this manner the whole jurisdiction of family courts and probation officers would be brought under the supervision of County Court judges. In the province of Quebec matters of this nature may be competently dealt with by the judges of the Court of Sessions.

TRAINING SCHOOLS

Since before Confederation separate institutions have been established in Canada to which children below the age of sixteen years who have been found guilty before a criminal court might be sent for confinement. These institutions were, until comparatively recent years, known as "reformatories," and had many of the characteristics of a prison. They were designed more for punishment than reformation.

The trend of public opinion, however, has been consistently away from this type of confinement of young people, and many important advances have been made toward the establishment of training schools, where discipline is strict but not oppressive, and the type of training is constructive rather than punitive. Some of those who appeared before the Commission severely criticized the results obtained in these institutions. The justice of their criticisms is hard to determine. They were for the most part general in their nature and without anything in the nature of definite proof. Your Commissioners have not considered it any part of their duty to investigate the conditions and methods of training in provincial institutions, other than to consider the general principles applied.

Your Commissioners are of the opinion that training schools to which juveniles are committed should be located in the country a considerable distance from any large city, where there would be ample scope for healthy development in a favourable atmosphere. Strict and careful classification should be followed, particularly with regard to segregating the mentally deficient. Rigid discipline, efficient education, and ample healthful physical work should be accompanied by a reasonable amount of diverting recreation and amusement. Your Commissioners are of the opinion that boys and girls in these institutions should be taught to play competitive games according to well-defined rules. If this is done a considerable impetus will be given to the attainment of self-discipline, which is requisite in the formation of good citizens.

Many interesting experiments in methods of training juvenile delinquents are being tried in Canada. The success of these experiments cannot readily be judged without more accurate statistical information, and they should not be judged merely by the large number of those in

penitentiaries who have at one time or another been in juvenile reform schools. These schools, at best, have poor raw material to work with. Juveniles are only sent to them who have proved to be failures under the discipline of the home and school, and after supervision or probation has failed. When so many have been eliminated by other methods of treatment, a great number of those who find their way into the training schools are mentally subnormal and present difficult problems of reformation. It is not surprising, therefore, that a large percentage of them ultimately find their way into prisons for adults. Nevertheless, from our study of these institutions in Canada and in other countries, we are convinced that such schools, properly organized and supervised, with the co-operation of an auxiliary body supervising the children on release, have done, and can do, effective work.

Your Commissioners are strongly of the opinion that there should be, connected with every training school, a voluntary citizens' committee of high standing to assist in the supervision and rehabilitation of those committed there for training. This committee should be composed of wisely selected men and women who will visit the children and provide for their proper placing and supervision upon release and after the term of their licence has expired. Such committees are now working in some of the provinces of Canada with impressive success.

Every effort should be put forward to remove any taint that may be attached to a boy or girl because of having been committed to any of these institutions for training. Members of the public should always remember that many of the children committed to these institutions are there because of circumstances over which they could not possibly have had any control. In England, such schools have ceased to be known as "reform schools" and are called "Home Office Schools." Every effort has been made by the Home Office to develop them along the lines of an ordinary public school.

Your Commissioners visited one of these schools at Red Hill, Surrey. It was situated in attractive surroundings, and the grounds were well kept. Ample provision was made for teaching trades in the well equipped shops. A large well-stocked farm was maintained and operated, not only to the profit of the institution, but to the benefit and education of the boys. Your Commissioners were particularly impressed with the happy and industrious appearance of the boys in this institution. In addition to a well-planned program of education and labour, games and sports formed an important part of the training. The boys were allowed periodic leave to go to their homes for short holidays. If they could not pay their fares funds were supplied by the institution. The governor of the school stated that it was only on very rare occasions that any boy had not returned punctually at the agreed time.

The task entrusted to officials in this class of institution is difficult, but with a scientific approach we are convinced that it can succeed in producing desirable results. Notwithstanding this, we wish again to emphasize that it is wise to avoid committing boys or girls to these institutions when any other method of treatment may be effective.

The authorities at Edmonton, Alberta, have evolved a scheme as an alternative to training schools that has had considerable success. In co-operation with the Children's Aid Society of Alberta, they have prepared a panel of foster homes. These homes are thoroughly inspected and well supervised, and are usually situated on a farm some distance from the city. When it has been decided that juvenile delinquents should be removed from the surroundings of their delinquency, they are put in one of these foster homes on probation and under supervision. The judges of the juvenile court and the children's aid authorities of Alberta report that marked success has attended this treatment. They also report that they have had no difficulty in obtaining a sufficient number of suitable foster homes to meet their requirements. In many cases youths so dealt with have been able to save substantial sums of money and have ultimately succeeded in establishing themselves in life. We are advised that the success of this system in Alberta has been due to the very strict character of the supervision exercised over the youths and over the homes in which they have been placed.

It appears to your Commissioners that this experiment might be extended into many other parts of the Dominion, especially in the districts adjacent to the smaller cities, towns, and villages.

CHAPTER XVII

YOUNG OFFENDERS

For the purposes of this report, a "young offender" may be defined as one who is above the legal juvenile age, and not more than twenty-one years, at the time of his, or her, appearance before the court. Some latitude, up to twenty-three years, might be permitted when the offender is of retarded development and, although actually older in years than twenty-one, is yet to all intents and purposes under twenty-two.

Youths at this period of their development are a distinct problem inherently different from that of juveniles or full grown men. They are adventurous, reckless, and temperamentally unstable. They are plastic, and impressionable, and their development is as yet incomplete. Biologically they differ from those who are younger or older. Much may be done in a preventive way to stabilize and train these youths in the course of good citizenship. In Great Britain, the "Physical Training and Recreation Act" of 1937 is directed to the encouragement of physical training and the establishment of centres for social activities by grants of aid from the state. In Canada, the "Unemployment and Agricultural Assistance Act" of 1937, with a grant of \$1,000,000, applies partly to a similar purposes. These measures are sociological rather than penological, preventive rather than curative, and, if entirely successful, would remove the necessity for any penological treatment of such youths. Unfortunately, they are not, and cannot be, entirely successful.

Youths who come before the courts are often without proper parental training. Some are recidivists; failures of the juvenile courts, industrial schools, or other methods of juvenile reformation and correction. Many are the victims of economic conditions. At this period the youth has often come for the first time from the shelter of the home to face life in our competitive world, where he must conquer it, make terms with it, or be conquered by it. The resort of the unemployed youths from broken or economically straitened homes is the street corner and,

"For the idle lad in his later teens the corner of a street is even more dangerous than the middle of a street for the aged and pre-occupied."¹

At this stage of development, lack of emotional, physical, or economic outlet, when coupled with bad company, is very often disastrous. Inhibitions, none too strong in the first place, are quickly broken down by association with evil companions. Without a legitimate approach to the achievement of growing ambitions, easy and immediate realization of desires through criminal activities presents an almost overwhelming temptation. By good fortune the youth may achieve a means of livelihood and become stabilized as a useful citizen. On the other hand, he may drift unproductively along the borders of crime, or, which is more probable, overstep that narrow border-line and find himself before the court. It is a matter of

¹ Principles of the Borstal system, Prison Commission of England, Lond., 1932.

chance in these circumstances whether the youth appears before the court charged with petty pilfering or some major crime.

The court must determine what is to be done with him. In such cases, nothing could be more futile, nothing could be more socially and economically unsound, than to try to fit the punishment to the crime. If this is done, as it has been done so often in the past, an habitual offender will be created, for, at this age, there is no middle course. Merely to send a youth to prison will accomplish little good. It may have a deterrent effect upon others, it may remove him for a short time from his companions and from a society he has injured, but eventually he will return to society and he will be more anti-social and more potentially dangerous to society than when he was convicted. For him, at least, the deterrent effect of imprisonment will have been weakened, if it has not actually been destroyed. At the plastic impressionable stage of youth he will have been subjected to the subtly demoralizing, and often contaminating, influence of prison life. His term of imprisonment can do but a modicum of good, while the harm that may be done is incalculable. It has been stated over and over again by outstanding authorities that no youth under twenty-one years of age should be sentenced to imprisonment if any other treatment can be found for him.¹

The first consideration of the court should be to see that young offenders are not sent to jail on remand. The machinery of bail and recognizances should be utilized to the fullest extent to keep these youths from the contaminating associations they would encounter even while temporarily in jail on remand.

All the resources of the probation system should be called upon before imprisonment is contemplated.² Release, under the supervision of experienced probation officers, is undoubtedly the most effective method of treatment for first offenders, and often for second offenders, providing the work of such probation officers is thorough. At the same time, in releasing a young offender on probation, the court should definitely impress upon him the seriousness of his position and, whenever it is practicable, restitution should be ordered.

If the crime is so heinous, or the character of the offender is so depraved, that a penitentiary sentence must be the inevitable consequence, such sentence should not be passed until a certificate of unruliness or depravity has been submitted to the court, or, if the offender is mentally deficient, care should be taken that his condition is recognized before sentence is passed, and that he is committed to an institution specially adapted for his care. If, however, the offender is not a suitable case for

¹ Report of the Departmental Committee on the Treatment of Young Offenders. Lond. 1927.

² "Nowadays a first offender is commonly not sent to Borstal or to Prison, but assigned to the care of a probation officer, who, if he finds him employment and introduces him to healthier influences, can probably remedy his condition and direct the trend of his taste. Such a method saves the lad from a long period of confinement in an institution, where, at the best, conditions of life are artificial. . . . Where probation is deemed inadvisable, or has been already tried and proved ineffective, a short sentence of imprisonment or a period of Borstal training, if the lad is between 16 and 21, varying from two to three years, constitute the main alternatives. The disadvantages of prison are manifest. The conditions of space and time make impossible an all-round program of training, contamination in some degree with older offenders is inevitable, the stigma is adhesive and not lightly erased. Probation is a real attempt to train the lad while he is still in free surroundings."

—"Principles of the Borstal System."

probation, for sentence to a penitentiary, or for confinement in a special institution for the mentally deficient, as the great majority of young offenders will be—perhaps recidivists who have been given every opportunity under probation and who have been pronounced unresponsive to all other treatment—some special form of imprisonment with adequate correctional treatment should be provided.

What has been done in Canada and elsewhere, and what is herein recommended to be done toward providing such special treatment, will be dealt with in the following pages, but your Commissioners wish to stress at this point that, for this class of offender, a short sentence of imprisonment is, not only inadequate, but utterly futile.¹ Once it has been determined that all other measures of deterrence and reformation have failed and that the offender must be imprisoned, he should be sentenced to a sufficient term to ensure proper treatment. For the purpose of training, correction, and reformation, at least three years are required in a separate institution designed for this purpose. It may not be necessary for the offender to spend all of this period in an institution. Provision should be made for his release under licence and supervision when it has been decided that he can best be dealt with in that way, but a minimum of three years is required for treatment if such treatment is to be effective.

When the offender is at liberty on licence, or when the term of his sentence and intensive training has been completed, a proper system of after-care and assistance is essential if the effects of his training are to be made permanent. Such after-care can best be furnished through the co-operation of official and voluntary workers.

These are the basic principles which your Commissioners believe to be essential in any effective treatment of young offenders.

In dealing elsewhere in this report with individual penitentiaries in Canada, it is shown how utterly inadequate has been the treatment there given to young offenders. Any impression that may have been given that the English Borstal system has been applied to youthful offenders in Canadian penitentiaries is entirely false, and we regret that the term has been improperly applied to the present treatment of young offenders in the penitentiaries. An imperfect attempt has been made to segregate young offenders in the penitentiaries, but the only result has been to deny them any opportunity of learning what little they might have learned of trade instruction, because they have been debarred from the penitentiary workshops. Most of the officers charged with the custody of young offenders in Canadian penitentiaries have had no training in their duties, and, in most cases, they have been of poor education, and some have been addicted to profane and obscene language. With two exceptions, they have shown no interest in the youths placed in their charge other than to see that they performed certain tasks of manual labour and that they did not attempt to escape.

¹ "The system of inflicting short sentences is, from an economic point of view, the most costly and extravagant that could be devised"—Crime and Criminals, 1876-1910, R. F. Quinton, M.D.

"Short sentences beget a class of minor recidivists. . . . who are continually in and out of prison"—The English Borstal System, Barman, London, 1934.

On August 10, 1935, the Superintendent reported that, prior to 1935, "the policy for the treatment of prisoners in penitentiaries has at all times included special treatment for adolescents," but your Commissioners were unable to discover any trace of such special treatment. When asked by the Commission, "what special treatment the adolescents got prior to July 5, 1935," the Superintendent replied, "the precise answer to that question is, in my belief, they did not get any."

Evidently at this time, no doubt as a result of the Superintendent's visit to England, there seems to have been some intention to adapt Borstal principles to Canadian federal institutions. In the Speech from the Throne, January 17, 1935, the following paragraph appeared:

"My Government has under consideration the adoption throughout the penitentiaries of Canada of a system similar to that which is known in England as the 'Borstal System,' and is making investigations as to its operation."

Following this statement, a report by the Superintendent on his inspection of the Borstal system of England appeared in the annual report of the Superintendent of Penitentiaries for the year ended March 31, 1935. It is stated that "time and experience will indicate the direction which should be followed in the provision of separate institutions." Following this, the Superintendent lists arrangements "presently being put into effect." These dealt with the segregation of young prisoners into separate wings, or parts of wings, in the various penitentiaries. He states that "the type and nature of treatment for young convicts will follow as closely as possible that presently existing in the Borstal institutions of England," and that "the staffs . . . will in the initial steps be composed of officers and instructors specially selected on account of their integrity and known ability in handling young men. . . . Their duties will be similar to those of Housemasters and Assistant Housemasters of Borstal institutions." He adds that "fortunately there is an abundance of work of the most suitable type in each penitentiary for the immediate employment of all young convicts."

Following this declaration of intentions, instructions to wardens were sent out in circulars of the Superintendent under dates of July 10 and September 11, 1935. Under date of July 10, wardens were informed that the Government had decided to introduce separate training for prisoners under twenty-one years of age, that the Superintendent had been sent to England to study the treatment of young offenders there, and that, as a result, he had submitted a report embodying the main principles to be dealt with. Wardens were instructed "to commence to pay particular attention to young convicts with a view to eventually selecting those who it is considered will be suitable for the separate training." It was stated that "the manner of providing supervisors and assistant supervisors is presently receiving consideration," and that wardens were to consider the matter of custodial staff for the young prisoners, keeping

in mind "the necessity of employing the most efficient keepers, warders, and guards for this purpose. Where possible the officers should be under forty years of age."

Under date of September 20, instructions were given to have a distinguishing mark, the letter "Y," added to the number of every young prisoner, irrespective of the type of treatment he was to be accorded in the penitentiary. After a young offender had passed his twenty-first birthday, a special report was to be made upon him, with a view to deciding whether he should continue in the "Y" class or be treated as an adult.

Unfortunately, the much-publicized introduction of the Borstal principle¹ into Canadian penitentiaries went very little further. Young prisoners are, for the most part, placed in wings, or parts of wings, of the various penitentiaries, but there is not the faintest attempt to follow the treatment which exists in the Borstal institutions of England; most officers and instructors selected had no ability in handling young men and were in no way comparable to the housemasters and assistant housemasters of the Borstal institutions, and the work provided, which was digging ditches and similar unskilled manual labour, may have been in abundance, but it had no possible value in training young offenders.

Your Commissioners are of the opinion that any satisfactory adaptation of the Borstal system is impossible in penitentiary institutions, either in its essential features or in its principles. The penitentiary atmosphere must ever be present to nullify the attitude of mind necessary for successful Borstal treatment. No proper training can be given to youths incarcerated in penitentiaries. The system of segregation of young offenders can never be effective in the penitentiaries. There are no facilities for their training, and there is not sufficient personnel available capable of the Borstal type of instruction.²

In many Canadian reformatory efforts have been made to classify and segregate young offenders, but here, too, your Commissioners believe that, owing to the character of the population in such institutions, it is impossible to introduce the principles or the essential features of the Borstal system of training.

Many reform schools, reformatories, and homes for boys and girls, are doing excellent work in the treatment of juvenile delinquents, but little or nothing is being accomplished for the older offenders who are still minors. Magistrates and judges frequently have difficulty in deter-

¹ In August, 1935, the Superintendent wisely cautioned the warden of Kingston Penitentiary that "at the outset I think it better if we avoid all reference to the words 'Borstal System' as we shall undoubtedly be charged with using the kudos which has been gained by the Borstal System in England, whereas it will be contended that we are not actually providing Borstal training at the outset." Nevertheless, it must be noted that the impression had already been set abroad that the Borstal system had been applied in Canadian penitentiaries and this impression is unfortunately still prevalent.

² "Borstal" is not a boys' prison. To collect all prisoners under 21 and confine them in a corner of a large jail and call the result a Borstal institution is a sham and a pretence, a piece of administrative complacency defrauding a credulous public. A Borstal institution is a training school for adolescent offenders, based on educational principles, pursuing educational methods. To be sent there is a punishment, for the training involves a very considerable loss of liberty, but to stay there is to be a chance to learn the right way of life, and to develop the good there is in each." The English Borstal System, (Introduction by A. Patterson), Barman, Lond., 1934.

mining what action to take in regard to these youths. They are too old to be sent to a school and, because of conditions in many jails, they are almost sure, through contacts with older offenders and idleness during detention, to come out worse than when they went in. The only alternative is to send them to a penitentiary, which is usually done under the mistaken impression that the youths will at least get education and be taught a trade. The fact is that they will get little of the former and none of the latter.

Since the visit of the Commission, an interesting project was initiated by the Attorney General of British Columbia, who has sought to establish a special institution for young offenders. A large house, with accommodation for from thirty to forty boys and a staff, with thirty-three acres of land suitable for agriculture, was established as a training school for young offenders. It is intended as an attack upon the problem of dealing with young men sentenced to terms in the provincial jail who have not gone beyond redemption. The youths are to be compelled to do eight hours manual work daily under strict discipline, with educational and training periods in the evening, and with recreation and outdoor sports allowed during the week. An advisory committee has been appointed in connection with this institution, and provision is being made for the after-care of these boys. If preliminary efforts meet with success it is hoped to develop the initial undertaking into a larger and more efficient institution.

Although your Commissioners are of the opinion that the English Borstal system cannot successfully be introduced into the penitentiaries or reformatories of Canada, their inspection of institutions for the treatment of young offenders, and their examinations of the methods of such treatment in the United States, England, and several countries of Europe, and their discussion of the problem with authorities in these countries, have led them to the conclusion that the English Borstal system is, without doubt, the most effective method of dealing with the problem of young offenders and that the principles of this system should be applied to Canada.

The inception of the English Borstal system dealing with young offenders between the ages of sixteen and twenty-one years, who had prior to this time been treated as adults, was in 1908, when the "Prevention of Crime Act" was passed.¹ This Act made it possible for the courts to send youths between the ages of sixteen and twenty-one years to a Borstal institution for training, instead of to ordinary

¹ The terms of the Prevention of Crime Act, 1908, may be summarized as follows:

A person convicted on indictment of an offence for which he would be liable to be sentenced to penal servitude or imprisonment, when it appears to the Court that, (a) he is not less than 16 or more than 21 years of age, (b) by reason of his habits, tendencies, or associations, it is expedient to subject him to detention in lieu of sentence to penal servitude etc., may be sentenced to detention in a Borstal institution for a term of not less than one year or more than three years, providing that the court shall first consider representations of the Prison Commission as to his suitability for Borstal treatment.

Provision is made that the Secretary of State may extend the age limit to twenty-three years, and the Secretary of State is empowered to establish Borstal institutions.

The Prison Commissioners may permit discharge by licence under supervision after six months, or, in the case of females, three months. Licences are to be in force for the term of the sentence, and licences may be revoked and the offenders returned to custody.

penal institutions for sentences of imprisonment, provided the court was satisfied that the character, state of health, and mental condition of the offender was such that he, or she, would be likely to profit by the instruction and discipline of a Borstal institution. This Act recognized for the first time that youthful adolescents, whatever their crime might be, were to receive special treatment particularly adapted to their needs. At first the Borstal institutions were little more than centres for segregating young from older offenders; an admirable development in itself, but entirely inadequate for training. In 1910, the Secretary of State promised Parliament that the Borstal institutions would be made more and more like schools and less and less like prisons. Since that time every effort has been devoted to fulfilling this promise, and the system has developed along lines that have made the institutions approximate as closely as possible to outside conditions, so that youths may be trained to become, not good prisoners, but good citizens.

In 1914, The Criminal Justice Administration Act was passed making certain changes in the law and administration of the English Borstal system. It altered the minimum sentence from one to two years, and indirectly rendered possible a maximum sentence of three years. The period of supervision after expiration of the term of sentence was extended from six months to one year. Provision was made for extending the age limit to twenty-three years by order of the Secretary of State. Borstal inmates under supervision could now be recalled to the institution in certain cases for one additional year. Wider powers were given to the courts of summary jurisdiction, and their jurisdiction was extended to non-indictable offences. Judges were to be provided with a character report to be submitted after conviction.

In 1936, the age limit for committal to Borstal detention was raised from twenty-one to twenty-three years. It was believed that the basic principles, which had been applied so successfully to boys under twenty-one years, might well be applied with equal success to older age groups.

Youths between sixteen and twenty-three years of age, when brought before the court, are divided roughly into three classes: those who are not bad enough for Borstal, i.e., who can be dealt with by probation or other non-institutional treatment, those who are too bad for Borstal, and the balance, mostly proved recidivist offenders, who are selected for Borstal treatment. It should be emphasized that no first offenders are as a rule sent to Borstal institutions. They are not for novices in crime but for those young offenders who have failed to respond to other courses of treatment.

The Borstal sentence is usually three years. The normal period of training in an institution is two years, with one year at liberty on licence and under supervision. The licence is granted, not only for the unexpired portion of the sentence, however, but also for one additional year, and if, during his release on licence, the offender fails to keep the conditions of such licence, it may be revoked at any time and the offender returned to finish his sentence at the institution.

Initial investigation of all youthful offenders committed to Borstal detention is regarded as most important. They are first committed to the Boys' Prison at Wormwood Scrubs, which is a clearing house for the various Borstal institutions. While at Wormwood Scrubs a thorough investigation is made of the character of the youth and all his antecedents, and it is on the report of this investigation that he is allocated to the most appropriate Borstal institution.

There are now seven Borstal institutions for boys and one for girls, divided into two main classes, (a) walled institutions and (b) open institutions. The walled institutions are not prisons, but simply institutions which are locked up at night. The open ones are not locked either by day or night.

Youths who are most trustworthy and those with the best prospects of reform are sent to the latest Borstal institution, the North Sea Camp, where there is less restraint than in an ordinary military camp. The next best among the young offenders are sent to Lowdham Grange with a view to their being released on licence at a specially early date if they work hard and behave well. Here the youths live in houses, about sixty to a house, and conditions are not dissimilar to those at a well supervised public school. From these two institutions the others are graded, with increasingly restrictive regimes according to type, up to the Sherwood Borstal Institution, where the oldest and most incorrigible are housed. For example, youths who are physically and mentally inferior and those of retarded mental development who do not need a stiff regime, are sent to Feltham. Youths who are of fairly high intelligence and have few convictions, but who have failed to respond to probation and have demonstrated a considerable inclination towards crime, are sent to Rochester. Those slightly more experienced in crime, and of a bolder type, including motor car bandits, etc., are sent to the island institution at Camp Hill. Older and physically bigger and stronger youths of the Camp Hill class are sent to Portland. The oldest youths, who must be treated more as men than as boys, are sent to Sherwood.¹

Mentally deficient youths are sent to a special institution with special characteristics adapted to their treatment. There is also a special Borstal institution for girls at Aylesbury, which was organized in 1909 and established at its present location in 1911-12.

There is no doubt that one of the great factors in training delinquent youths is individual attention given by men of educated minds and sound character. To obviate the difficulty of giving individual attention to several hundred youths collected in one institution with a limited staff, the youths have been divided into four or five houses in each institution, each house containing from fifty to seventy youths in charge of a housemaster and assistant. Each house is a self-contained unit. During their stay the youths progress by grades, each grade carrying with it slightly increased privileges and responsibilities. Promotion is obtained by good conduct and industry until a stage is

¹ The English Borstal System, Barman, London, 1934.

reached where they are fully trusted to work without supervision and to go about the institution and grounds without being escorted. While the youths are progressing through the various grades, the housemaster and his assistant, together with all the other members of the staff, give each youth constant attention and, by encouragement, admonition, and regular instruction, help him to reshape his life.

Industrial training and vocational guidance are given an important place. This training is partly productive and partly instructional. For those youths who show no aptitude for any of the skilled trades, labouring work is provided and, in such cases, the development of physical condition is given first consideration. Each institution has a library, and any of the books may be taken from the library, read, and frequently exchanged.

Individual attention is given to the illiterate and backward. The physique and health of the youths is a matter of special care. Experience has shown that it is hopeless to expect a delinquent youth who is physically defective to earn an honest living, and no training can hope to succeed unless great attention is paid to physical defects. Physical training and gymnastics are under the direction of experts.

Concerts of good music are held and plays performed at regular intervals, sometimes by the boys themselves. Lectures are frequently given by experienced lecturers on a variety of subjects. The object of all these activities is to introduce youths to pursuits, which, it is hoped, may help them to occupy their leisure time when they again take up their lives outside. The system has for many years placed spiritual instruction in the forefront of its program. Chapels are provided at most institutions, and chaplains are sought who have a sympathy for, and an understanding of, youth. Where there is no chapel, the youths attend the nearest local church and join with the local residents at Sunday worship.

Both inmates and staff work long hours, usually from 7 a.m. to 9 or 10 p.m. The activities of the day are divided into work at various trades and industries, study, and recreation. There is no evidence of indolence or idleness at any time. Physical training and sports are designed to develop the physical fitness of the youths, night study to develop their minds, and trades to instill habits of industry. In work, study, and recreation, the program is designed to develop a sense of responsibility, both towards themselves and others, in order to fit them to take a proper place in society after their discharge. Several of the institutions visited were well equipped with playing fields, swimming tanks, and gymnasiums, but sports and recreation are by no means overdone in these institutions. They take a proper and proportionate place in the complete system of training.

Your Commissioners, when visiting the various Borstal institutions of England, were particularly impressed with the wholesome and healthy conditions they found at all these institutions and the excellence of the personnel employed there. Many of the staff are experienced schoolmasters or young army officers of high education, and all have been selected

because of their peculiar capability for the work and their industry and devotion to duty. The Borstal system, indeed, depends for its success upon the men it attracts to its service. Human contacts mean more than elaborate buildings, and the personal influence of members of the staff must be directed to establishing a standard and providing an inspiration for each youth. It is the declared policy of the system, first, to obtain the services of the best men it is possible to find, and, second, to give them as wide a scope as it is practicable to give. Regulations are constantly curtailed and the scope of judgment and discretion is extended.¹

Your Commission visited many Borstal institutions in England, and members of the Commission and staff visited institutions for the care of young offenders, more or less influenced by Borstal methods, in Scotland, Holland, Belgium, and France. Some of the features noted at these institutions are worthy of record and may prove of assistance in adopting the Borstal system to Canadian conditions.

Wormwood Scrubs

Wormwood Scrubs is the collecting centre of all the Borstal boys. Classification is carried out according to the boys' needs. There is a very complete hospital with modern equipment where the boys are given a thorough medical examination and any required treatment before being assigned to a Borstal institution. Conversation is permitted. During recreation, such games as table tennis are played indoors and, in summer, there are outdoor games of cricket and bowls.

Voluntary visitors approved by the prison authorities are permitted to go into the cells talk to the youths without restriction. After visiting hours, educational classes are held by voluntary teachers who are selected by the Home Office. Some of these are women.

Lowdham Grange

Your Commissioners made an inspection of the Lowdham Grange Borstal institution, which is situated in the country surrounded by fine grounds. Building of this institution was started in 1930 and, when it is finished, there will be four houses with accommodation for sixty boys in each.

There were 160 boys in residence at the time of our visit. Most of them are sentenced for three years but are eligible for parole on the recommendation of the Board of Visiting Magistrates at the end of six months.

The housemaster in charge of each house maintains a record of observation and an analysis of each boy in his charge. Each house is divided into five groups, and dormitories are in charge of leaders selected from among the youths themselves. There are no walls, no uniformed

¹ "The Borstal System has no merit apart from the Borstal Staff. It is men and not buildings who will change the hearts and ways of misguided lads. Better an institution that consists of two log-huts in swamp or desert, with a Staff devoted to their task, than a model block of buildings, equipped without thought of economy, whose Staff is solely concerned with thoughts of pay and promotion. The foundations of the Borstal System are first the recruitment of the right men, then their proper training, and finally their full co-operation with one another in an atmosphere of freedom and mutual understanding. . . . *Principles of the Borstal System.*

guards, and no bars on the windows. Boys who have reached the highest grade are permitted to go away to camp during weekends and other holiday periods and, as there is no chapel in connection with the institution, the youths go to nearby churches. There is a large farm where vegetables are grown and live stock is reared. The boys work eight hours per day and have plenty of recreation.

North Sea Camp

The North Sea Camp is situated on reclaimed land that is being taken from the sea by dykes built by the boys themselves, and the buildings are simple frame hutments, which, under supervision, have also been built by the boys.

There is no disciplinary staff, and roll-call is taken only at breakfast before the boys go to work on the marsh. They work in gangs of four and are paid on the basis of the number of tubs loaded per head per day. Boys who have reached the final grade are permitted to go to town without supervision. On entry they are placed in the lowest grade, where they are given an opportunity to learn the routine of the institution. When their conduct is satisfactory they are promoted to the second, or training, stage and, finally, to the third stage where the most freedom is permitted. There are no rewards beyond additional freedom for good conduct, but demotion is prompt if the youth fails to maintain the required standard of the grade.

Portland Borstal Institution

The Borstal institution at Portland has a population of 306. There are five houses of approximately sixty boys each, and each house is divided into six groups, with a leader for each. The buildings, which are old, are kept bright and clean, and the hospital is new and modern. There is a gymnasium, laundry, a good kitchen, and central heating. There is also a stadium for cricket and field sports, which has been made from an old stone quarry, the bottom of which has been filled in, levelled, and sodded. Hobby work is encouraged, and the products are sold to the public. Five matrons are employed on the staff of this institution.

Scottish Borstal Institutions

In Scotland, both at Glasgow and Edinburgh prisons, there are sections devoted to (a) a male Borstal class; (b) a female Borstal class, and (c) a juvenile adult class.

There is also the main Borstal institution at Polemont. When a youth between the ages of seventeen and twenty-two, inclusive, is placed in prison pending trial, the governor of the prison examines him and gets a report on his home life, etc. This report is given to the magistrate who is trying the case, and he decides whether the youth is to be given Borstal treatment.

At Edinburgh and Glasgow, the workshops and farm are utilized to the fullest extent and there are modern educational facilities, but at

Polemont, which was established twenty years ago, the buildings are old and somewhat dilapidated. Land has been purchased for the erection of a new institution, however, and this will be proceeded with in the near future.

In Scotland, the juvenile Welfare and After-Care Office is a government department composed of three branches:

- (a) The Council of Juvenile Organizations;
- (b) The After-Care Council;
- (c) The Probation Council.

These three branches are in charge of youths, juveniles, and adults, on parole, after discharge, and when on probation.

Ameersfoort (Holland)

In Holland, two of your Commissioners visited the Dutch adaptation of the Borstal system at Ameersfoort, which has a population of 170 boys over seventeen years of age. The buildings are modern and have up-to-date workshops where the boys are employed seven hours per day and where they receive excellent training. The boys are released when they attain the age of twenty-one years or when a job has been found for them and the average stay in the institution is two years.

The population is divided into ten groups, each of which has a separate dining and recreation room. There is a large vegetable garden, playing field, and orchard. The boys sleep in small compartments with wire tops and glass doors. They bathe once a week. A peculiarity of this institution is that the boys are permitted to keep animal pets. No very bad boys are sent here, and there is said to be but ten per cent recidivism.

Hoogstraeten (Belgium)

Your Commissioners also visited the Belgian counterpart of the English Borstal institutions, which is located at Hoogstraeten and is known as a "Prison Ecole." Boys between the ages of sixteen and twenty-five are sent to this institution, and there were approximately 150 boys confined there at the time of our visit. Selection of youths to be sent to this institution is made by decision of the "Central Administration." They are divided into two classes:

- (a) Boys under twenty-five years of age who have less than life sentence;
- (b) Certain selected first offenders between twenty-five and thirty years of age under a fairly long term of imprisonment.

The educational program is extensive, and there is a large farm for agricultural training. There are no dormitories. The cells have closed doors and outside windows. The building itself is an old medieval castle, complete with moat and drawbridge.

French Approved Schools

In France, the Minister of Education is charged with the care and treatment of juveniles and young offenders. While there is no counter-

part of the English Borstal institutions, there is a system of "approved schools." Those at St. Maurice, St. Hilaire, Belle Isle, Aniane, and Eysses are for boys, and those at Cadillac, Clermont, and Doullès are for girls. The approved school of St. Maurice, at LaMotte-Beuvron near Orléans, compares to some extent with the Rochester Borstal Institution.

St. Maurice is the latest effort of the French Administration to cope with the problem of young offenders. A former hunting lodge of Napoleon III, together with an extensive property, has been taken over for this purpose. There are 114 boys between the ages of thirteen and twenty-one. Modern dormitories (with glass enclosed cubicles) and well-equipped shops and classrooms have been built. The institution is self-sustaining with respect to farm produce, and many youths receive agricultural training.

United States of America

One of the outstanding institutions for young offenders visited by your Commissioners in the United States was at Annandale, New Jersey. The extensive classification scheme that exists in New Jersey permits youths between the ages of sixteen and twenty-five who are of the most reformable type to be sent to Annandale. The institution is built on the cottage plan and has a population of 640 boys. They eat in association and are quartered in dormitories and room-cells. There are extensive facilities for trade instruction, schooling, and farming.

The federal reformatory at Chillicothe, Ohio, and the New York state reformatory at Wallkill, which were also visited, are very similar in purpose and effect to that at Annandale.

Borstal training is based on the double assumption that there is individual good in every youth and that he possesses an innate corporate spirit. The purpose of Borstal training is to rouse these elements and to teach otherwise wayward youths to be self-contained and self-respecting and so fitted for freedom. There is no attempt to break or knead the youths into shape, but rather to stimulate the power within to regulate conduct aright, and to insinuate a preference for the good and clean and a desire to lead life well. It is stressed that the Borstal system has no merit apart from the Borstal staff. It is men and not buildings who will change the hearts and ways of misguided youths.¹

Borstal training falls into two parts, training in custody and comparative freedom under licence and supervision. Classification is used for the positive purpose of placing an individual youth in a milieu likely to draw out what is best in him, and, secondly, for the negative purpose of avoiding contamination.

The policy of the Borstal authorities is toward encouragement of contacts with the home and the outside world through letters, visits, etc., and by having a visiting committee, the members of which are chosen for their experience of men and life and are always welcomed at the institutions and permitted entire freedom of access to the inmates.

¹ The Principles of the Borstal System, Prison Commission of England, Lond., 1932.

Borstal Association

After-care is a most important feature of the Borstal system, and this is taken charge of by the Borstal Association.

All English prison authorities are united in the opinion that the success of the Borstal system depends very largely upon the Borstal Association. The Borstal Association was founded in 1903-4 by Sir Evelyn Ruggles-Brise, then Chairman of the Prison Commission, "in the belief that the best results could be obtained in the field of after-care by a voluntary association working in close co-operation with the department responsible for Borstal institutions."¹ The Home Secretary is always president of the Borstal Association.

Financial arrangements have developed from an original grant of £100 to the present arrangement whereby the Home Office pays the entire expense of the association except that which is incurred in actual gifts made to the youths. In order to provide for the latter, public subscriptions are invited, and the Home Office contributes £2 for each £1 subscribed.¹

Every youth on leaving a Borstal institution is discharged under a licence that runs for the unexpired portion of his sentence and a period of twelve months beyond, so that a youth may be on licence for two years or longer.

The Borstal Association is the "approved society" to which he is licensed, and it is charged with the responsibility of seeing that the terms of the licence are carried out. These terms are that the youth must live an honest and industrious life to the satisfaction of the Borstal Association, and must not mix with bad associates. The official agents of the association are known as "Borstal Associates."

The Borstal Association gets in touch with the youths immediately they have been convicted, visiting them at their first place of detention, Wormwood Scrubs, explaining the general scheme of the association and what can be done for them both during their training and afterwards. A member of the association visits every institution once a month and interviews all youths who are designated for discharge as well as any who wish to apply for help in outside matters, which generally refer to home conditions, relatives, and friends. The association members visit these relatives and afford them help and advice where possible. They then inform the youths of what they have been able to accomplish, and this has a reassuring effect that has been found to be an important factor in keeping the youth in a state of mind calculated to help him get the best out of his training. The visitor devotes considerable time each month to the youths, discussing a multitude of matters and getting to know them, so that, on discharge, the association will be more advantageously equipped to assist them. Three months before discharge the Borstal Association is notified of all cases selected for discharge, and every provision is made to receive the youth suitably when he has actually been discharged and proceeds to his selected destination. The expenses of the association are paid through the prison vote supplemented by private subscriptions. In

¹ The Principles of the Borstal System, Prison Commission of England, Lond., 1932.

1936-37, the Government grant was £9,000 and private subscriptions about £1,000, making a total of £10,000.

In 1936, in England, 1,003 youths were sent to 412 districts and were supervised by 294 associates. These associates fall into three classes: (a) association employees; (b) probation officers; and (c) private helpers. The association employees are used mostly in London and district and in Liverpool. In the smaller cities and towns probation officers are found particularly suitable because of their knowledge of local conditions. Private helpers have been found advantageous in small villages and country districts. All these associates, by a system of regular reports, keep the association informed of the circumstances of each youth, and these records form the basis of statistical analyses which are made from time to time.

As an auxiliary to the Borstal Association, a Borstal voluntary committee has been set up in every large town, with offshoots spreading into the neighbouring country districts. Organizations interested in social work send a representative to serve as a member of this committee and to be responsible for finding a friend for each youth, who will take a kindly interest in him and advise him with regard to his activities—to be a guide and counsellor generally. These committees are constituted from Rotary Clubs, Toc H., Rover Scouts, churches, education departments, Trades Unions, etc., and give a very wide range of service, which enables the Borstal Association, taking into account his age, tastes, characteristics, and leanings, to place a youth in what is considered to be the most suitable company. This scheme has been working very satisfactorily in England for several years.

The success of the Borstal system depends very largely on the efficiency of the associates. The Borstal institutions might successfully reform the young offenders who are sent to them for training, but, without the complement of effective after-care such as is provided by the Borstal Association, no permanent reformatory results could be obtained.

The Borstal system has been developed by evolutionary methods in England and now, after thirty years' experience, has been proved to be successful. Recidivism among young offenders, while increasing to an alarming extent in other countries, has been checked and reduced in England. The Borstal system has succeeded in a marked degree in preventing the recidivist young offender from becoming an habitual offender. This is illustrated by the following tables:

POSITION AT THE END OF DECEMBER, 1936, OF YOUTHS DISCHARGED FROM BORSTAL INSTITUTIONS DURING THE THREE YEARS, 1932-1934

| Year | Total discharges from all Institutions | Not since reconvicted | Reconvicted once only | Reconvicted two or more times |
|-------------|--|-----------------------|-----------------------|-------------------------------|
| 1932..... | 769 | 384 (49.9%) | 189 (24.6%) | 196 (25.5%) |
| 1933..... | 883 | 496 (56.2%) | 202 (22.9%) | 185 (20.9%) |
| 1934..... | 900 | 598 (66.4%) | 185 (19.8%) | 117 (13.8%) |
| Totals..... | 2,552 | 1,478 (57.9%) | 576 (22.6%) | 498 (19.5%) |

POSITION AT THE END OF DECEMBER, 1936, OF GIRLS DISCHARGED FROM
AYLESBURY BORSTAL INSTITUTION DURING THE THREE YEARS, 1932-1934

| Year | Total discharges from Aylesbury | Not since reconvicted | Reconvicted once only | Reconvicted two or more times |
|-------------|---------------------------------|-----------------------|-----------------------|-------------------------------|
| 1932..... | 64 | 40 (62.5%) | 19 (29.7%) | 5 (7.8%) |
| 1933..... | 65 | 40 (61.5%) | 16 (24.6%) | 9 (13.9%) |
| 1934..... | 64 | 44 (68.7%) | 11 (17.2%) | 9 (14.1%) |
| Totals..... | 193 | 124 (64.3%) | 46 (23.8%) | 23 (11.9%) |

After observing the characteristics of the English Borstal system and discussing them with the Home Office officials and Borstal officers, your Commissioners have come to the definite conclusion that there is no known better treatment for young offenders than the Borstal system and that these principles should be adopted as far as possible in Canada. There are in Canada well over 7,000 youths convicted annually who are over the age of sixteen and below the age of twenty-one years, a very substantial portion of whom should be receiving Borstal treatment instead of being locked up in our prisons—especially as they are at present conducted.

The difficulties to be overcome in adapting the English system to Canadian conditions are largely geographical, including the distribution of population, but your Commissioners see no reason why these difficulties should prove insurmountable. It would seem that the essential features of the Borstal system might well be applied to young offenders in Canada, with variations of methods to adapt the treatment to Canadian conditions and to Canadian personality.

As has already been pointed out, the Borstal treatment cannot be successful or efficient unless young offenders are sentenced to a minimum period of training of three years, but authority should be given for their release on licence and under supervision when they are deemed to be ready for such release.

Under the law as it now stands no question of jurisdiction is involved to impede the Government of Canada in making the necessary provision for establishing the required institutions. Your Commissioners recommend the immediate establishment of a Borstal *unit* of three grades, each grade to be separately located and not contiguous to another, in Ontario, and one in the province of Quebec, and, either now or later, a further similar *unit* in the Prairie Provinces, one in the Maritime Provinces, and a fifth, modified to the population of the province, in British Columbia. Provision should also be made for a collecting and reclassification centre for each *unit* on the lines of Wormwood Scrubs.

It is essential that an after-care association modelled on the English Borstal Association should be established in Canada in conjunction with social service agencies to assist youths while under supervision and after discharge.

CHAPTER XVIII

RECIDIVISM

Recidivists may be divided into three classes: (a) inebriates, vagrants, and beggars; (b) young recidivists; and (c) confirmed recidivists.

Inebriates, Vagrants, and Beggars

There is in every country a considerable derelict population of a non-vicious type that passes through the police court dock daily. It is composed of men and women of weak moral fibre, many of whom are of low mentality. These become the flotsam and jetsam of society. There is nothing very bad about them, often much good, but they are, nevertheless, derelicts. They find their way into the Salvation Army refuges, the missions, and the police stations, or wherever they can find shelter. There are no statistical tables compiled to record their movements. However, well ordered society demands that they be treated in a more efficient and economical manner than is the case at the present time.

This class of offender seldom commit serious crimes. They restrict themselves to petty thefts or acts of vagrancy, many are habitual drunkards. Our police court records contain innumerable cases of men who scores of times have been found guilty of drunkenness. The sentences imposed on this type of offender are short and the prisoner is soon again at large, a further expense to the community.

Your Commissioners were impressed by the method adopted in Holland and Belgium to care for beggars, vagrants, and drunkards. At Veenhuizen, the Dutch Government operates a large prison farm that has accommodation for approximately 1,500. This institution had its origin in post-Napoleonic days. Prisoners are committed to this farm by the courts. A vagrant or beggar may be committed for a period of three years and an habitual drunkard for a period of two years. The majority of the inmates work outside on the farm but a number are employed in modern workshops manufacturing articles for use in different Government departments. Considering the class of labour employed, the volume and quality of the goods manufactured are surprisingly good. The inmates earn from ten cents to thirty cents per day and work ten hours per day. One-third to one-half of the money earned may be spent on tobacco and other luxuries; the balance is given to them on discharge. The institutional life of the older inmates is similar to that which might prevail at an old men's home. On the whole it is much more free and pleasant than in the ordinary prisons and there is little custodial supervision. The policy of the Government is to pay little attention to escapes in view of the fact that the inmates are of a non-vicious type. Usually an escaped prisoner is sent back by the police, but if he secures honest employment his escape is overlooked.

At Merxplas, Belgium, a similar institution of similar origin is operated along substantially the same lines. Your Commissioners are of

the opinion that serious consideration should be given to setting up similar institutions in the more thickly populated areas of Canada, where offenders of these types may be housed for substantial periods at a time instead of following their present routine of arrest, sentence for thirty days or three months, release, rearrest, and resentence.

The initial cost of such an institution would be low compared with the ordinary type of prison because the usual custodial safe-guards would be unnecessary. If efficiently operated it might be substantially self-supporting, and the younger inmates might be trained in industrial habits so that at least a certain percentage of them would engage in regular employment on release and thenceforth cease to prey upon the public.

Youthful Recidivists

The treatment of youthful offenders is discussed in another chapter of this report. It is sufficient for the purpose of this chapter to state that, from the ranks of the recidivist youthful offenders, there are recruited a large percentage of the habitual criminals who create such a formidable problem in the administration of the criminal law. The following table, prepared by the Dominion Bureau of Statistics, shows the growth of crime among males from sixteen to twenty years of age in Canada:

INDICTABLE OFFENCES FOR AGE GROUP 16 TO 20 YEARS
PER 100,000 POPULATION OF THE AGE GROUP

| | Convictions of males 16 to 20 | Population of males 16 to 20 | Per 100,000 population |
|-----------|-------------------------------------|------------------------------------|------------------------------|
| 1891..... | 653 | 254,089 | 257 |
| 1901..... | 819 | 275,616 | 297 |
| 1911..... | 1,536 | 357,118 | 430 |
| 1921..... | 3,064 | 393,406 | 779 |
| 1931..... | 6,840 | 516,673 | 1,324 |
| 1932..... | 6,272 | 523,777 | 1,197 |
| 1933..... | 6,487 | 527,263 | 1,230 |
| 1934..... | 5,706 | 522,787 | 1,081 |
| 1935..... | 5,660 | 522,683 | 1,083 |

The following table shows comparative figures in England and Wales:

INDICTABLE OFFENCES FOR AGE GROUP 16 AND UNDER 21
PER 100,000 POPULATION OF THE AGE GROUP

| Year | Number of convictions ¹ | Census population | Convictions per 100,000 population |
|------------------------------|--|----------------------|--|
| 1891 (No figures available). | | | |
| 1901 ⁽¹⁾ | 7,151 | 1,581,272 | 452 |
| 1911..... | 4,497 | 1,628,982 | 276 |
| 1921..... | 5,834 | 1,676,362 | 348 |
| 1931..... | 4,848 | 1,724,277 | 281 |

¹ In comparing the figures of convictions for the year 1901 with those for the years 1911, 1921, and 1931, consideration should be given to the effect of the Probation of Offenders Act, 1907. The Probation of Offenders Act provides that convicted persons may be released on probation without proceeding to conviction. About forty per cent of those convicted of indictable offences are dealt with under the Probation of Offenders Act. Seven per cent of these were released after the charge was proved without proceeding to conviction.

The above tables indicate that crime among youths has been increasing at an alarming rate in Canada, while it has been decreasing in England and Wales. That the number of convictions for indictable offences per 100,000 of the male population between sixteen and twenty years of age should have increased in Canada from 779 to 1,324 in the ten year period between 1921 and 1931 is sufficient to arrest the national attention. Your Commissioners are convinced that if the large body of habitual criminals is not to be increased in Canada the adoption of the suggestions contained in the chapter dealing with the treatment of youthful offenders is imperative.

Confirmed Recidivists

The following table shows the number of convictions for indictable offences in Canada and the number of times convicted for indictable offences per 100,000 of the population:

| Year | Charges | Per 1000-000 Pop. | Convictions | Per 100,000 Pop. | Convicted 1st Time | Per 100,000 Pop. | Convicted 2nd Time | Per 100,000 Pop. | Convicted 3 or more Times | Per 100,000 Pop. |
|---------------|---------|-------------------|-------------|------------------|--------------------|------------------|--------------------|------------------|---------------------------|------------------|
| 1891..... | 6,030 | 125 | 3,974 | 82 | 3,532 | 73 | 235 | 5 | 207 | 4 |
| 1901..... | 8,291 | 154 | 5,638 | 105 | 4,430 | 82 | 624 | 12 | 584 | 11 |
| 1911..... | 16,625 | 231 | 12,627 | 175 | 11,233 | 156 | 800 | 11 | 594 | 8 |
| 1921 (1)..... | 24,943 | 284 | 19,396 | 221 | 15,789 | 180 | 1,845 | 21 | 1,762 | 20 |
| 1922..... | 21,032 | 236 | 15,720 | 176 | 13,022 | 146 | 1,335 | 15 | 1,363 | 15 |
| 1923..... | 19,759 | 219 | 15,188 | 168 | 12,686 | 141 | 1,212 | 13 | 1,290 | 14 |
| 1924..... | 20,667 | 226 | 16,258 | 178 | 13,109 | 143 | 1,329 | 15 | 1,820 | 20 |
| 1925..... | 21,685 | 233 | 17,219 | 185 | 14,172 | 152 | 1,345 | 15 | 1,702 | 18 |
| 1926..... | 21,976 | 233 | 17,443 | 185 | 14,286 | 151 | 1,365 | 15 | 1,797 | 19 |
| 1927..... | 23,563 | 244 | 18,836 | 195 | 14,761 | 153 | 1,632 | 17 | 2,443 | 25 |
| 1928..... | 26,683 | 271 | 21,720 | 221 | 17,314 | 176 | 1,955 | 20 | 2,451 | 25 |
| 1929..... | 29,572 | 295 | 24,097 | 240 | 18,638 | 186 | 2,396 | 24 | 3,063 | 30 |
| 1930..... | 34,751 | 340 | 28,457 | 279 | 21,319 | 209 | 3,051 | 30 | 4,087 | 40 |
| 1931..... | 38,189 | 368 | 31,542 | 304 | 23,474 | 226 | 3,159 | 30 | 4,909 | 48 |
| 1932..... | 37,621 | 358 | 31,383 | 299 | 23,841 | 227 | 2,895 | 28 | 4,647 | 44 |
| 1933..... | 38,927 | 364 | 32,942 | 308 | 24,576 | 230 | 3,584 | 33 | 4,782 | 45 |
| 1934..... | 37,408 | 346 | 31,684 | 293 | 22,805 | 211 | 3,219 | 30 | 5,660 | 52 |
| 1935..... | 39,506 | 361 | 33,531 | 307 | 23,844 | 218 | 3,163 | 29 | 6,524 | 60 |

(1) Before 1922 Juveniles (under 16 years of age) were included in Indictable Offences.

Although this table includes all offenders over sixteen years of age (since 1922), it is sufficient to indicate that the number of convicted persons with multiple convictions has been so definitely on the increase as to require drastic action. Between the years 1925 and 1935 the number of convictions increased from 185 per 100,000 of population to 307, or 65.9 per cent. The number convicted the first time per 100,000 of population increased from 152 to 218, or 43.4 per cent. The number convicted for the second time per 100,000 of population increased from fifteen to twenty-nine, or 93.3 per cent. Those convicted per 100,000 of population the third time or more increased from eighteen to sixty, or 142.8 per cent.

The following table shows the growth of recidivism in Canada per 1,000 persons who have been convicted of indictable offences:

| Year | 2nd time | 3rd time or more | Total recidivists per 1,000 convicted |
|---------------|----------|------------------|---------------------------------------|
| 1891..... | 59 | 52 | 111 |
| 1901..... | 111 | 104 | 215 |
| 1911..... | 63 | 47 | 110 |
| 1921 (1)..... | 95 | 91 | 186 |
| 1922..... | 86 | 87 | 173 |
| 1923..... | 80 | 85 | 165 |
| 1924..... | 82 | 112 | 194 |
| 1925..... | 78 | 99 | 177 |
| 1926..... | 78 | 103 | 181 |
| 1927..... | 87 | 130 | 217 |
| 1928..... | 90 | 113 | 203 |
| 1929..... | 99 | 127 | 226 |
| 1930..... | 107 | 144 | 251 |
| 1931..... | 100 | 156 | 256 |
| 1932..... | 92 | 148 | 240 |
| 1933..... | 109 | 145 | 254 |
| 1934..... | 102 | 179 | 281 |
| 1935..... | 94 | 195 | 289 |
| 1936..... | 107 | 224 | 331 |

(1) Before 1922 Juveniles were included in Indictable Offences.

The above figures cast a grave reflection on the methods of treating convicted prisoners in Canada. That the number convicted three times or more per 1,000 convicted persons should have risen from eighty-seven in 1922 to 224 in 1936 indicates that the present system is neither effecting reformation nor affording protection to society against further offences by prisoners when liberated.

The following table shows the growth of recidivism in Canada between the years 1925 and 1936:

CONVICTIONS FOR INDICTABLE OFFENCES

1925-1936 (Canada)

| | 1925 | 1926 | 1927 | 1928 | 1929 | 1930 | 1931 | 1932 | 1933 | 1934 | 1935 | 1936 |
|-----------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| First offenders..... | 14,172 | 14,286 | 14,761 | 17,314 | 18,638 | 21,319 | 23,474 | 23,841 | 24,576 | 22,805 | 23,844 | 24,109 |
| Second offenders..... | 1,345 | 1,365 | 1,632 | 1,955 | 2,396 | 3,051 | 3,159 | 2,895 | 3,584 | 3,219 | 3,163 | 3,864 |
| Third and over..... | 1,702 | 1,797 | 2,443 | 2,451 | 3,063 | 4,087 | 4,909 | 4,647 | 4,782 | 5,660 | 6,524 | 8,060 |
| Total..... | 17,219 | 17,448 | 18,836 | 21,720 | 24,097 | 28,457 | 31,542 | 31,383 | 32,942 | 31,684 | 33,531 | 36,033 |

The number of convictions for indictable offences in Canada compares very unfavourably with the number in England and Wales. With a population of approximately forty millions, the number of convictions in England and Wales for indictable offences, from 1931 to 1935, was as follows:

| | |
|-----------|--------|
| 1931..... | 46,810 |
| 1932..... | 51,180 |
| 1933..... | 48,248 |
| 1934..... | 47,834 |
| 1935..... | 47,424 |

The figures are not available to show the number convicted on more than one occasion.

The causes of recidivism cannot be definitely determined or dogmatically assigned; sometimes they may be psychological, sometimes psychiatric, but we are of the opinion that they are more often due to the treatment the prisoner has received while in prison or to the difficulty of rehabilitation after the offender has been released.

For the purpose of determining the importance of the matter, the Commission made a study of the available material disclosed in the files of 188 prisoners confined in the Canadian penitentiaries on January 1, 1938 who had been convicted more than ten times. In considering the results of this study, it is emphasized that these 188 prisoners do not by any means represent the total recidivist population of the Canadian prisons, or even of the penitentiaries. A reference to the table set out above shows that, of the 36,059 persons convicted in 1936 of indictable offences, 8,060 were convicted three times or more and 11,924 twice or more.

The information available in the files of these 188 prisoners is insufficient to give an individual case history, but it is, nevertheless, sufficient to show many factors and trends that are of assistance in considering the treatment of prisoners.

The total number of prisoners confined in the penitentiaries on January 1, 1938, was 3,250. Of these 188 had been convicted more than ten times; some over sixty times. 181 of these prisoners (the record is incomplete as to the other seven cases studied) have been convicted 3,434 times, or an average of nineteen convictions per individual.

Appendix III contains six tables analysing the records of these prisoners, having consideration to the type of crimes committed, the number of convictions, the ages when first offences were committed, and the habits and status of the prisoners. This analysis shows that thirty-two per cent of these prisoners were convicted the first time before they were sixteen years of age, forty-seven per cent before the age of eighteen, and seventy-seven per cent before the age of twenty-three. Seventeen per cent of these prisoners were addicted to the use of drugs. Eighty-eight per cent did not have education above common school, while only one-quarter of one per cent had education above high school.

A study of the economic cost of these 188 recidivists is convincing proof of the wisdom of adopting a system of prison administration that will reduce recidivism to a minimum. We are convinced that this objective has been justified in England and would be justified in Canada if under proper supervision. The following tables show an estimated cost of conviction and maintenance of the 188 recidivists whose cases have been analysed:

Cost of Conviction

| | |
|---|--------------------------|
| 188 prisoners have been convicted.. . . . | 3,434 times |
| Those for liquor and vagrancy offences.. . . . | 798 " |
| Other offences.. . . . | 2,636 " ¹ |
| 2,636 convictions at a cost per conviction of \$1,200.. . . . | \$3,163,200 ² |
| 798 convictions at a cost per conviction of \$120.. . . . | 95,760 ³ |
| Total cost of convictions.. . . . | \$3,258,960 |
| Number of convictions was 3,434, or 19 per individual. | |
| Cost per prisoner.. . . . | \$18,005 |
| Cost per conviction.. . . . | 948 |

¹ See the composition of this figure by type of crime in Table No. 1, Appendix III.

² Superintendent Hughes stated in his report for 1925-26 that the records disclosed the average cost of conviction for the commission of a crime to be about \$1,200. This figure would include the cost of detection, arrest, and trial.

³ As Superintendent Hughes' figure for major convictions may well be in excess of the actual figure, the figure for minor convictions is made ultra-conservative, or one-tenth his cost for a major conviction.

Cost of Maintenance

| | Years | Months | Days |
|---|----------------|--------|------|
| Total time spent in jails and reformatories.. . . . | 553 | 11 | 21 |
| Total time spent in penitentiaries ¹ | 1,483 | 11 | 2 |
| Total time spent in penal institutions.. . . . | 2,037 | 10 | 23 |
| Cost of maintenance in reformatories and jails ² | \$1.31 per day | | |
| Cost of maintenance in penitentiaries, exclusive of capital expenditure ³ | 2.00 per day | | |
| On the foregoing basis, the cost of maintenance would be: | | | |
| In reformatories and jails.. . . . | \$ 264,876 76 | | |
| In penitentiaries.. . . . | 1,083,254 00 | | |
| Total cost of maintenance.. . . . | \$1,348,130 76 | | |
| The average terms served by each prisoner was: | Years | Months | Days |
| In reformatories and jails.. . . . | 3 | 0 | 22 |
| In penitentiaries.. . . . | 8 | 2 | 11 |
| | 11 | 3 | 3 |
| The average cost of keeping each prisoner would be: | | | |
| In reformatories and jails.. . . . | \$1,463 41 | | |
| In penitentiaries.. . . . | 5,984 83 | | |
| Total.. . . . | \$7,448 24 | | |

¹ Includes present sentence, even if not completed.

² Average computed from information supplied by provincial Governments.

³ Approximate figure from Superintendent of Penitentiaries reports: i.e., 1934-5=\$1.82; 1935-36=\$2.01; 1936-37=\$2.04.

Total Cost

Without reckoning the loss occasioned by the crimes committed, the funds contributed to the support of dependents, or the economic loss occasioned by the criminals' incarceration, the total cost occasioned by these 188 recidivists would be as follows:

| | |
|--|----------------|
| Maintenance in jail or reformatory.. . . . | \$ 264,876 76 |
| Maintenance in penitentiary.. . . . | 1,083,254 00 |
| Cost of convictions.. . . . | 3,258,960 00 |
| Total cost to the state.. . . . | \$4,607,090 76 |

Cost per Prisoner

| | |
|--|--------------|
| Maintenance in jail or reformatory.. . . . | \$ 1,463 41 |
| Maintenance in penitentiary.. . . . | 5,984 83 |
| Cost of convictions.. . . . | 18,005 00 |
| Total cost per prisoner.. . . . | \$ 25,453 24 |

One can only conjecture what would be the result of a similar computation in regard to our 8,000 recidivists, but the facts herein disclosed are a convincing proof that a prison system that on the whole, returns prisoners to society worse than when received into its custody fails in its function to protect society and, on the other hand, contributes heavily to the economic burdens that have continually to be borne by the taxpayer. We are of the opinion that the chief causes of recidivism are as follows:

1. The absence in Canada of an adult probation system providing for the release of offenders under supervision;
2. Contamination of young offenders in jails, reformatories, and penitentiaries, by coming in contact with degenerate and experienced criminals;
3. The failure of the prison system of Canada to give proper weight to the importance of reformatory treatment of prisoners;
4. The appointment of staff without training or capacity to fulfil other than mere custodial duties;
5. The antagonistic attitude of society toward a person who has been convicted of crime, and the absence of any well-organized scheme of rehabilitation of prisoners in Canada.

We have made many recommendations in this report that will involve in the first instance the expenditure of money to provide new buildings and additional staff. We have recommended treatment of young offenders on Borstal lines, a prison for habitual offenders, and proper supervision of paroled prisoners. The facts disclosed in this chapter should be conclusive evidence that expenditure to prevent recidivism will eventually prove to be a great economic benefit.

CHAPTER XIX

HABITUAL OFFENDERS

Notwithstanding the best methods of punishment and reformation that may be adopted, there will always remain a residue of the criminal class which is of incurable criminal tendencies and which will be unaffected by reformatory efforts. These become hardened criminals for whom "iron bars" and "prison walls" have no terrors, and in whom no hope or desire for reformation, if it ever existed, remains. They are the costly worthless dregs of society, for whom no adequate arrangements have been provided in Canadian prisons. They come before the courts on all sorts of more or less serious offences; they are the "ins and outs," sometimes in for long periods and sometimes short, but, nevertheless, "in and out."

In Great Britain, France, Holland, Belgium, and the United States of America, the principle of the segregation of habitual offenders has been adopted so that their contaminating influence will be reduced to a minimum both in prison and out.

The problem was first dealt with in Great Britain in the Gladstone Report. The committee that prepared this report referred to the habitual criminals as follows:

"To punish them for the particular offence in which they are detected is almost useless; witnesses were almost unanimous in approving of some kind of cumulative sentence; the real offence is the wilful persistence in the deliberately acquired habit of crime. We venture to offer the opinion formed during this inquiry that a new form of sentence should be placed at the disposal of the judges by which these offenders might be segregated for long periods of detention during which they would not be treated with the severity of first-class hard labour or penal servitude, but would be forced to work under less onerous conditions. As loss of liberty would to them prove eventually the chief deterrent, so by their being removed from the opportunity of doing wrong the community would gain. With regard to the locality of such institutions, we suggest that sites on estuaries or other places where there is ample scope for land reclamation, would be most suitable for consideration."

These recommendations were given legislative recognition in the Prevention of Crime Act (G.B.) of 1908. Part I of this Act made provision for Borstal institutions for young offenders and part II for the detention of habitual offenders.

"Lord Gladstone, in proposing the Act, made it clear that it was intended to deal not with the generality of 'habituals' but only with that more limited body of 'professional criminals' or 'persistent dangerous criminals' 'engaged in the more serious forms of crime'."¹

¹ Fox—The Modern English Prison (p. 168), Lond., 1934.

The provisions of Part II are set out in Appendix XVII-1 to their report. They may be summarized as follows:

When a prisoner is convicted of a crime and subsequently admits that he is, or is found by a jury to be, an habitual criminal, and if the court passes a sentence of penal servitude (a sentence of three years or over), the court, "if of the opinion that by reason of his criminal habits and mode of life it is expedient for the protection of the public that the offender should be kept in detention for a lengthened period of years, may pass a further sentence ordering that, on the determination of the sentence of penal servitude, he may be detained for such period not exceeding ten and not less than five years . . . as preventive detention."

This Act was regarded as revolutionary in the administration of British criminal law, and was hedged about with "safeguards," since proved "difficulties" that have prevented the law from fully accomplishing its original purpose. These "safeguards," or difficulties, have been summarized as follows:

- "(i) The consent of the Director of Public Prosecutions must be obtained by the Police before they can charge an offender with being an habitual criminal.
- (ii) The Secretary of State advised Police Forces that normally, they should only submit to the Director cases where, in addition the qualifications expressly required by the Act, the criminal (a) is over 30 years old; (b) has already undergone a term of penal servitude; (c) is charged anew with a substantial and serious offence.

If the consent of the Director is obtained, and if the offender is convicted on the fresh charge, and if the Court decides to pass a sentence of penal servitude in respect to that charge, then

- (iii) The jury must be asked to find, on evidence, that he is an habitual criminal, and to this end they must be satisfied not only that since the age of sixteen, in addition to the fresh conviction, he has been at least three times previously convicted, but that he is 'leading persistently a dishonest or criminal life.' Should the jury find this charge proved, then
- (iv) The Court must determine that 'for the protection of the public it is expedient that the offender should be kept in detention for a lengthened period of years.' For varied reasons the Court does not invariably so determine, so that it is relatively rarely that a case reaches the final stage—
- (v) The passing of sentence of Preventive Detention."¹

The Act provides that a prison or part of a prison shall be set apart for the purpose of confining those sentenced to preventive detention. The rules applicable to convicts and convict prisons apply to those under-

¹ Fox—The Modern English Prison (p. 169), Lond., 1934.

going preventive detention "subject to such modifications in the direction of a less rigorous treatment as the Secretary of State may prescribe. . . ."

The Secretary of State is required, at least once in every three years of the prisoner's sentence, to take into consideration "the condition, history and circumstance" of the prisoner, "with a view to determining whether he shall be placed out on licence and, if so, on what conditions." The Act provides that those released on licence shall be placed "under the supervision or authority of any society or person named in the licence." Provision is made for a committee at each prison at which prisoners are undergoing preventive detention to assist in interviewing the prisoners and in making reports for consideration in determining whether a licence should be granted to them under the provisions of the Act.

A fundamental principle embodied in the basic structure of this Act is a hope that the habitual criminal who is sentenced to preventive detention may still be reformed—a hope in which we express grave doubt.

"In 1928 when the Act had been in operation for twenty years, the Commissioners in their Annual Report (pages 12-18) published a detailed account of the operation of preventive detention, which showed conclusively that it had not had the effect which was intended. This view was confirmed by the Persistent Offenders' Committee of 1932 which recommended that Part II of the Act should be repealed and that further provision should be made for dealing habitual criminals. . . .¹

The following quotation from the report of the Prison Commissioners indicates that in their view the Act has not been sufficiently utilized. This, no doubt, is due to its cumbersome and restrictive provisions.

"Between the date when the Act came into operation in August, 1909, and 31st December, 1928, 901 sentences of Preventive Detention have been passed, of which 735 were for the minimum period of five years and 34 for the maximum period of 10 years . . . in recent years the average number of sentences has been for men 31, for women 0.6 each year. How insignificant are these figures compared with the number of recidivist criminals can be seen by taking any sample batch of convicts and noting how numerous are those who have three or more previous convictions of crime. For example, in 1928 there were discharged from the convict prisons 434 men, of whom 308 were 'recidivists.' Of these 308 there were 54 with one or two previous convictions of crime, and 254 with three or more previous convictions of crimes. One hundred and fifty-nine of them had six or more such previous convictions and 134 of them had served previous sentences of penal servitude. . . . Seeing that this sample batch of 308 recidivists represents only a portion of the total number of recidivists who at any one time are at large . . . it is clear that 31 sentences a year of Preventive Detention can have no appreciable effect on the problem of recidivism."²

¹ Fox—*The Modern English Prison* (p. 173), Lond., 1934.

² Annual Report of the Commissioners of Prisons and the Directors of Convict Prisons, Lond., 1928.

Our doubts that reformatory effort can be applied with success to habitual criminals are somewhat confirmed by the following information taken from the same report of the Prison Commissioners.

Taking the men released from Camp Hill (preventive detention prison) during the seven years from January 1, 1920, to December 31, 1926, the total number licenced was fifty-five. Of these, four died, and one became insane. Of the remaining fifty, all but three had reverted to crime by the end of 1928. Of twenty-six discharged on expiration of sentence during the same period, three died and, with the exception of four, the remainder had all reverted to crime by the end of 1928.

In 1931, a committee was appointed by the Home Secretary of Great Britain

“to enquire into the existing methods of dealing with persistent offenders, including habitual offenders, who are liable to sentences of preventive detention and other classes of offenders who return to prison repeatedly and to report what changes, if any, are desirable in the present law and administration.”

In April, 1932, the committee made its report¹ to the Home Secretary. This report is an able and exhaustive treatise on the whole subject and is worthy of the most careful consideration by those who will be responsible for considering the recommendations contained in this report.

The committee was of the opinion, with which we entirely agree, that the procedure provided by the Act should be simplified and that a sentence to preventive detention should not be cumulative with a sentence to penal servitude. It is unnecessary to go into the committee's report in further detail except to say that it recommended the preservation of the reformatory aspects of the former practice and the principle that preventive detention should be less rigorous than penal servitude.

In Belgium, advanced experiments in preventive detention are being tried. These are modelled on the British system and are reported to be developing satisfactorily.

The same principles have been adopted in the Dutch and German penal systems but have not reached the same stage of development as in Belgium or Great Britain. Of preventive detention in German prisons, Mr. Harold Scott, C.B., chairman of His Majesty's Prison Commissioners for England and Wales, in a report published in 1936, states:

“Preventive detention for dangerous habitual criminals, which has been in force since the 1st January, 1934, has as its object to render the prisoner harmless by detaining him after he has purged his offence by serving his sentence of imprisonment, so that the public may be protected from further crimes. Absolute security of detention and prevention of escape is to be secured at all costs. In general persons in preventive detention are to be treated in accordance with the rules for ordinary prisoners; they are required to work, and provided their conduct and industry are good, they may receive

¹ Report of the Departmental Committee on Persistent Offenders, Lond., 1932.

certain privileges provided these are not contrary to the object of preventive detention, e.g., they may be allowed to chew or smoke tobacco."

In France, until 1937, habitual criminals were transported to the penal colony at Cayenne, the theory being that the severity of the punishment would operate as a deterrent to others. It is unnecessary in this report to discuss the success of this system. It has now been discontinued, and the French Government is directing its attention toward modernizing the administration of its prison system. Habitual criminals are now segregated in the prison of Caen (Calvados).

In New York State, and in several other states of the United States of America, provision has been made in the statutes whereby,

- (a) A second offender shall be sentenced to a term of imprisonment, not less than the longest term for which he might be sentenced as a first offender and not more than twice the longest term prescribed for a first conviction, provided the offence is not one for which a life term might be given on first conviction;
- (b) After a person has been convicted for a felony on a fourth conviction, he shall be sentenced to imprisonment for the term of his natural life.

We have not seen such evidence of such success in the enforcement of the rigorous terms of these statutes as would justify their adoption in Canada.

Your Commissioners recommend the enactment of the necessary legislation to provide for the confinement of those who may be found to be persistent and habitual criminals, and that the legislation governing procedure should be framed so as to provide that,

- (a) After an offender has been convicted of an indictable offence on three previous occasions, if he has attained the age of sixteen years he may, on subsequently being charged with an indictable offence, in addition to the charge that is preferred against him be charged as an habitual offender;
- (b) The offender shall first be tried on the charge that is preferred against him and, if found guilty, the crown counsel may then proceed with the charge that he is an habitual offender;
- (c) For the indictable offence preferred against him the accused should be tried according to the present procedure, but the power to find him an habitual offender should be vested only in judges of the Superior or County Courts sitting without a jury, or, in the province of Quebec, in a judge of the Court of Sessions, or in a judge of the Superior Court, without a jury;
- (d) If found guilty of being an habitual offender or habitual criminal, the sentence should be for an indeterminate period;
- (e) The prisoner may be released on ticket-of-leave if there is reasonable probability that he will abstain from crime. (This power should be exercised with great care in view of the purpose of the detention.);

- (f) The sentence of preventive detention should become effective at once and not on the expiration of any other sentence imposed for any offence on which he may have been tried.

For the purpose of carrying this recommendation into effect, a special prison should be erected remote from any other penal institution. In the erection of this prison it will be necessary to provide for safe custody by maximum security. Ample employment should also be provided. The attention of your Commissioners has been directed to the physical advantages, for the purposes of such an institution, of Grosse Isle, an island in the St. Lawrence river about twenty miles below the city of Quebec. This property was formerly used as a quarantine station by the Department of National Health. There are a number of buildings that could be altered for prison purposes. The station has been closed for a number of years but the property is still owned by the Government of Canada.

The treatment to be accorded the prisoners in an institution for habitual offenders is a matter for careful study by the prison authorities. The purpose of the prison is neither punitive nor reformatory but primarily segregation from society. In Great Britain and Belgium, and in a measure in Germany, it has been the practice to treat prisoners undergoing preventive detention with greater leniency than prisoners undergoing penal servitude.

The report of the Departmental Committee on Persistent Offenders states:

“In pursuance of the provision in the Act that their treatment shall be less rigorous than the treatment for penal servitude convicts, special Rules have been made for preventive detention. Under these Rules a preventive detention prisoner can earn various privileges which the penal servitude convict does not normally enjoy. Thus he can earn a money credit for work done, and is allowed to employ this in various ways, including the purchase at the prison of certain commodities in the nature of luxuries. He has opportunities for association with other preventive detention prisoners, not only during working hours but also at meal times and in the evenings. During the periods of recreation the men can smoke and talk and play table games. They have greater facilities than a convict has for reading newspapers and other periodical publications, for writing and receiving letters, and for receiving visits. There are two other distinguishing features of preventive detention which are to prisoners of great importance. The preventive detention prisoner receives a more varied and liberal diet than other prisoners, and he has also greater freedom from detailed supervision than the average local or convict prisoner. In the arrangements made to ameliorate the lot of these prisoners all that is reasonably practicable seems to have been done.”¹

¹ Report of the Departmental Committee on Persistent Offenders, Lond., 1932.

The prisoners are permitted to earn money, starting at 2 pence a day, rising in a year (provided conduct is good) to 3 pence, and, after two years, to 4 pence, with gratuities of 5 shillings each for good conduct stripes. They are permitted to spend this money on articles of food, toilet requisites, and smoking material. Meals are taken in association and the prisoners are permitted to play certain indoor games together in the evenings. Newspapers are provided, and meals are on a more liberal scale than those provided for prisoners undergoing penal servitude.

The wisdom of the methods employed will become more manifest as these experiments develop. As has been stated, however, your Commissioners do not consider that much hope can be held out for the reformation of these habitual criminals. On the other hand, if the punishment imposed in preventive detention is unduly rigorous, judges will refuse to commit habitual offenders for preventive detention and those who ought to be segregated from society will continue to be released from prison on the expiration of their sentences, so that the system will thus defeat its own purpose. The experiments in England and Belgium, where the system is receiving careful trial, ought to form a guide for the Canadian authorities.

Your Commissioners are of the opinion that, if these recommendations are adopted, the indefinite deprivation of the liberty of offenders who have definitely adopted a life of crime will operate as a powerful deterrent for the reformable criminal who has not yet become an habitual, and, in addition, it should minimize the corrupting influence of the habitual criminal both in and out of prison.

It is essential to bear in mind that this chapter deals with habitual offenders who have been so found by the court, as distinct from incorrigible and intractable prisoners who must, under the scheme of classification recommended in chapter VIII, be segregated by the prison authorities.

CHAPTER XX

CONDITIONAL RELEASE

ADULT PROBATION

Probation is the release of offenders who have been brought before the court, under the supervision of an officer of that court and on such conditions of good behaviour, etc. as the court may prescribe. The probation officer acts as friend and adviser, and, on the failure of the probationer to fulfil the terms of his probation, it is his duty to report him back to the court for the imposition of sentence for the offence on which the accused was originally brought before the court.

The object of a system of probation is to provide an opportunity, in proper cases, for those convicted of crime to effect their own reformation under the guidance, assistance, and authority of an officer of the court. At the same time the accused is not exposed to the degradation of a prison term or the demoralizing influences connected therewith.

The idea of probation had its birth in British countries in 1879 by an amendment to the Summary Jurisdiction Act of Great Britain. Section 16 of that Act provided, *inter alia*, that when a court of summary jurisdiction was of the opinion that, though the charge was proved, the offence was so trifling that it was inexpedient to inflict any punishment or other than a nominal punishment, the court, upon convicting the person charged, could discharge him conditionally on his giving security, with or without sureties, to appear for sentence when called upon, and to be of good behaviour. In connection with the administration of the amended Act, a practice grew up among the magistrates in England to ask the police court missionaries to give advice and help to offenders who were thus conditionally discharged, and this may be regarded as the inception of legal supervision of convicted offenders.

In 1881, a bill was passed in the British House of Commons making provision for a system of supervision of accused persons while on bail, but this bill failed to receive the approval of the House of Lords.

In 1887, a "first offenders" bill was introduced into the House of Commons. In introducing this bill, its sponsor stated:

"This modest bill proposes to give magistrates power—not to compel them—where a person is brought before them for the first time charged with an offence punishable by imprisonment only, to direct that he shall be conditionally released upon probation of good conduct."

It is interesting to note that the bill was opposed by one member of the House of Commons on the ground that it was "an extremely dangerous principle to leave it to a lot of amateurs to say that persons who have been convicted, shall be allowed quietly to merge into the honest peaceful population and be heard of no more." The bill, although amended in the House of Lords, received the royal assent on the 8th of August, 1887.

The effect of the Act was to extend the principle of release on recognizance, which had been contained in the Act of 1879, to apply to persons convicted of larceny, false pretences, or other offences punishable with not more than two years' imprisonment, and it was limited to first offenders. The Act, however, did not attempt to set up any machinery for the supervision of the persons dealt with under its provisions. This was left to court missionaries, voluntary workers, and friends of the accused. It was the practice of magistrates to bind over offenders under the provisions of this Act and to inform them they would be under the supervision of such persons as might be designated during the term of the bond.

In 1906, a bill was introduced in the British House of Commons that was designed to make provision for the appointment of probation officers, whose duty it would be to supervise offenders who had been released under the terms of the statutes already mentioned. The bill was withdrawn, but in the following year Mr., now Sir, Herbert Samuel introduced as a Government measure a bill which repealed section 16 of the Act of 1879 and the whole Act of 1887. This measure made provision for an effective system of probation and the appointment of probation officers who were to be paid out of public funds. On the second reading of the bill in the House of Lords, the Earl of Meath used the following oft-since quoted words:

"This bill can hardly be called a first-class measure in the ordinary sense of the term. It is not one which creates a great deal of popular excitement. There can be no doubt whatever that the bill will prevent crime, and to a large extent empty our gaols."

This bill cannot by any means be given the whole credit for emptying the English jails, but it has, no doubt, been a contributing factor to the results obtained in England during the last thirty years. The number committed on indictment who were received into the jails and prisons of England and Wales in 1909 was 9,613, while in 1935 it was 4,657.

Since 1892, the Canadian Criminal Code has contained provision for the release of convicted persons on suspended sentence. Under the provisions of section 1081 of the Criminal Code a judge or magistrate before whom any person has been convicted may, in certain circumstances, release the convicted person on probation of good conduct instead of sentencing him at once to any punishment. The accused is required to enter into a recognizance, with or without sureties and during such period as the court directs, to appear and receive the judgment of the court when called upon to do so and, in the meantime, to keep the peace and be of good behaviour.

The power of the presiding judge or magistrate to act under the provisions of this section without the consent of counsel acting for the crown in the prosecution of the offender is limited to cases where the person is convicted of an offence punishable with not more than two years' imprisonment and with no previous conviction proved against him. Where the offence is punishable with more than two years' imprison-

ment and where the offender has been convicted on a previous occasion for an offence not related to the offence in question, the court may act under the provisions of the section with the consent of counsel acting on behalf of the crown.

The section provides that in invoking its provisions regard is to be had "to the age, character, and antecedents of the offender, to the trivial nature of the offence, and any extenuating circumstances under which the offence was committed."

By an amendment to the section passed in 1921, the court was given power to impose conditions on the offender that must be observed by him while on probation.

There is no provision in the Canadian Act whereby, as in the English Act, the court may release an accused person on probation without proceeding to conviction. Your Commissioners do not recommend that such a provision should be made applicable to adults.

With the exception of the province of Ontario, no provision has yet been made under the laws of either the Dominion of Canada or any of the other provinces for the supervision of adult convicted persons who have been released under the provisions of this section. Such provision has been made only in the county of York and the cities of Toronto, Ottawa, and Hamilton.

With the exception of the above county and municipalities, moreover, no provision has been made, by either the federal or provincial authorities for any proper investigation or report to the presiding judicial authority such as would enable him to determine whether the offender is one who should be released on terms instead of being imprisoned.

At the present time, the judge who is to pass sentence is given information only as to the previous prison record of convicted persons and he is not provided with sufficient information to enable him to pass appropriate sentences. This is not in keeping with one of the essential aims of the penal system, reformation and rehabilitation. It leaves only the consideration of punishment as a deterrent factor.

Your Commissioners recommend that proper machinery should be established to provide the judge, before passing sentence, with a full story of the prisoners's background, the probable cause of his downfall, and a complete report of his mental and physical condition, prepared by an expert psychiatrist and physician.

It is quite true that, in many cases, investigation is made by the police authorities, and that counsel acting on behalf of the accused brings to the presiding judicial officer such relevant facts as would convince him as to the propriety of such a release. It is our view, however, that such methods are not satisfactory and that it is essential to the proper operation of an adult probation system that investigation should be carried out by trained probation officers appointed by the court. Only in this way can the court rightly determine who should be put on probation, or see to it that the offender who is on probation is placed under the constant supervision of trained officers of the court, and only in this way can those offenders who are not proper subjects for it be prevented from obtaining

probation. It is important that offenders who are proper subjects for probation should be given an opportunity for rehabilitation.

Your Commissioners fully realize that it is generally accepted that the first object of a court, in the matters of punishment or treatment of offenders, should be to deter persons from committing crime, and the second object to reform, as far as is practicable, those who commit them. There are many cases where the first consideration may preclude the use of probation and where it may be in the interests of society to send an offender to prison as a warning to others but, where that consideration does not arise, there are many proper cases where adult probation is preferable to imprisonment. In such cases the court should have every means of determining whether the offender can best be reformed by release under supervision or by a sentence to imprisonment.

In the province of Ontario provision has been made for supervision, and for the appointment of officers who may report to the court either before or after the offender has been released on probation.

The Probation Act, R.S.O. 1927, chapter 364, has been in force in Ontario since 1932. The object and scope of the Act is set out in section 2:

"2.—(1) For the purpose of giving effect to section 1081 of the Criminal Code and amendments thereto, it shall be the duty of the probation officer and he shall have power with regard to any person convicted at a sittings of the Supreme Court for the trial of criminal cases or at the general sessions of the peace, or the county judges' criminal court, or at the court of any police magistrate or justice of the peace or by a juvenile court in the county or district,—

- (a) to procure and report such information as to the antecedents, family history, previous convictions, character of employment and other information respecting any person so convicted as the court may require;
- (b) to supervise under the direction of the court before whom such person was convicted the employment, conduct and general condition under which the person so convicted may be placed during the period of probation imposed by the court;
- (c) to see that any person so convicted reports from time to time as the court may prescribe, and to report to the court if the person so convicted is or is not carrying out the terms on which sentence is suspended, and to see that such person, in case of such default, is brought again before the court for sentence;
- (d) to see that any person so released on suspended sentence duly makes restitution and reparation;
- (e) to see that any person so convicted while on probation duly carries out any order of the court requiring him to make due provision for the support of his wife and any other dependents for which he may be liable;
- (f) to do all such other things as may be directed by the court or by the regulations made under the authority of this Act.

(2) In the performance and exercise of the powers imposed by or under subsection one, the probation officer and any assistant of the probation officer shall be *ex officio* a provincial police constable."

The officers appointed under the Act are paid by the provinces, and the municipalities are required to provide them with office accommodation. Seventeen officers have been appointed under the provisions of this Act, which, as has been stated, is as yet confined to the county of York and the municipalities of Toronto, Ottawa, and Hamilton.

In the city of Toronto and the county of York, a chief probation officer has been appointed who is assisted by a staff of eleven officers. The services of these officers are available, not only to supervise probationers, but, when called upon, to make reports to magistrates and judges before sentence has been passed. Your Commissioners are of the opinion that the services of such officers ought to be utilized to a much greater extent.

According to evidence given before your Commissioners, many offenders have been admitted to probation without the necessary reports being received from probation officers. It is not fair to any system of probation that this should be done, and the results obtained in the city of Toronto and the county of York must be considered in the light of this fact.

The method of compiling statistics has not been sufficiently analytical to show what percentage of those who have been released on suspended sentence under supervision have later been convicted of crime. Judge H. W. Mott, the chief probation officer for the city of Toronto and county of York, stated in evidence before your Commission that, of 9,000 persons released under the supervision of the probation officers since 1921, ninety-one per cent have failed to appear subsequently in the Toronto courts. No record is available as to their appearance in other courts. In England, forty-two per cent of those convicted of indictable offences in the year 1936 were released under the supervision of the probation officers, but reliable statistics are not available as to the subsequent history of these offenders.

Making all allowance for the paucity of statistics that are available, however, your Commissioners are satisfied, on the evidence submitted to them, that the principle of adult probation is sound and that, wherever given adequate trial, the system has been successful. The evidence shows that in the province of Ontario, where the system has been in limited operation, it has succeeded, not only in saving a large portion of those so released from the taint and degradation of penal confinement, but in assisting them to become useful members of society.

In adopting a probation system certain cardinal principles should be followed. Probation should never be either lenient or harsh. It should always be definitely disciplinary in purpose. The conditions of probation should be wisely imposed by the court and strict compliance therewith should be demanded. In no sense should it be regarded by the offender as equivalent to being "let off." He should always be made to realize

that probation is a conditioned liberty. It may be necessary at times to impose conditions that are even irksome, but the good probation officer should be able to make the offender realize that the conditions of liberty, instead of being for punishment, are for the purpose of assisting him to acquire good habits and to adopt a more ordered and disciplined mode of living.

When an offender is released on probation the court does him an injustice if it does not surround the release with all the solemn dignity of a sentence of the court. The conditions should be carefully read to the offender in court, he should be required to subscribe to them in writing, and a copy should be given to him on his release. If a recognizance is taken a copy of this should be attached to the conditions.

The success of any probation system will depend on the character of the personnel appointed to administer it. All probation officers should be appointed by the court. These officers should be carefully recruited from the ranks of well-trained social service workers. They should be persons capable of exercising infinite patience and, where necessary, firm discipline. Males should be appointed for the supervision of male probationers and females for the supervision of female probationers. In no case should a probation officer be appointed as a political reward for services rendered.

Your Commissioners are of the opinion that, in addition to the reformatory influence it exerts, the establishment of an adult probation system throughout Canada would effect an economic saving to the authorities charged with the responsibility of administering the criminal law in all its phases.

The 9,000 offenders dealt with without incarceration in the city of Toronto and county of York since the Adult Probation Act came into force have ceased to be a liability to the state during the term of their sentences, and, in most cases, they have become an asset. Moreover, they have not been exposed to prison influence and all its resultant consequences.

The value of adult probation cannot be expressed in clearer language than that used in May, 1935 by the Lord Chief Justice of England in a lecture on the subject of treatment of young offenders:

“But of course the right-hand man, an indispensable handmaid of the court, is the probation officer. The men and women of this service are as remarkable as they are unknown. In a single year nearly 20,000 men and women, boys and girls, are assigned to their care. If a similar number were sent to prison for a year the cost would be twenty times as great. The saving of money to the State is striking. The saving of the stigma to the individual is immeasurable.”¹

Your Commissioners recommend:

1. That an adult probation system be adopted throughout Canada modelled upon the system now in force in England;

¹ Harris—Probation and Other Social Work of the Courts (Clarke Hall Lecture), Lond., 1937.

2. That the probation officers be appointed by the courts and that they be recruited from the ranks of trained social service workers;
3. That the services of the probation officers be made available for the preparation of histories of convicted persons, and that such reports be furnished to the presiding judicial authority before the accused is sentenced;
4. That, as hereinafter recommended, probation officers be given supervision over persons who are released on ticket-of-leave.

REMISSION

Statutory Remission

Under the provisions of the Penitentiary Act, prisoners are allowed to earn a statutory remission of a portion of their sentences, subject to satisfactory conduct, application to industry, and strict observance of the prison rules.

This remission has the effect of arbitrarily shortening the sentence of the prisoner. When remission has been granted to a prisoner, his sentence has been executed and he is entitled to be discharged and set at liberty, subject, however, to the cancellation for misconduct of all, or a portion of, the remission granted. In addition to the provisions of the Penitentiary Act, which are applicable to prisoners incarcerated in penitentiaries in Canada, provision is made in the Prisons and Reformatories Act for the remission of a portion of the sentence of prisoners incarcerated in prisons and reformatories. The following are the provisions of the Penitentiary Act which are applicable:

"64. The Superintendent, subject to the approval of the minister, may make regulations, under which a record may be kept of the daily conduct of every convict in any penitentiary, noting his industry and the strictness with which he observes the prison rules, with a view to permit such convict to earn a remission of a portion of the time for which he is sentenced to be confined, not exceeding six days for every month during which he is exemplary in conduct and industry.

2. When any convict has earned and has at his credit seventy-two days of remission, he may be allowed, for every subsequent month during which his conduct and industry continue satisfactory, ten days' remission for every month thereafter."

Pursuant to the above section, regulations have been passed from time to time. The following regulations are now in effect:

"172. The Warden is authorized to deprive a convict of not more than thirty days of earned remission for any offence against Penitentiary rules. For the forfeiture of any longer period it shall be necessary to obtain the sanction of the Minister of Justice.

"173. Every convict who escapes, attempts to escape, breaks prison, breaks out of his cell, or makes any breach therein with intent to escape, or assaults any officer or servant of the Penitentiary, or

being the holder of a licence under the Ticket-of-Leave Act, forfeits such licence, shall forfeit the whole of the remission which he has earned.

"174. A convict who forfeits all or any part of his remission as a punishment for an offence against prison rules, may at once again begin to earn remission or further remission, but if the forfeiture is accompanied by another punishment of a continuing nature, he shall not again begin to earn remission or further remission until the expiration of the punishment of a continuing nature.

"175. Should a convict forfeit all his remission twice during any term of imprisonment, he shall not again begin to earn remission until, in the opinion of the Warden he shall have given definite evidence of reformation.

"176. No remission forfeited by a convict may be restored."

On January 21, 1935, the Superintendent of Penitentiaries issued a circular, No. 10/35, which is an eight page memorandum sent to the wardens of all Canadian penitentiaries explaining and amplifying the manner in which the regulations are to be applied.

Notwithstanding the fact that regulation 171, which provides that the right to earn remission for good conduct should not start until the expiration of six months after the date the prisoner enters the penitentiary, has been incorporated in the penitentiary regulations since 1889, your Commissioners are of the opinion that it is an unwise one. The object of these provisions of the Act is to give the prisoner an incentive to conform to prison discipline. The first six months of incarceration in a penitentiary is probably the prisoner's most difficult period, and it would seem that he ought to have this encouragement to observe good conduct and to adjust himself to prison discipline by being afforded the right to earn the remission of a portion of his sentence. It will be observed that this provision in the regulations operates to the detriment of the prisoner in two ways:

1. He earns no remission for the first six months;
2. He does not commence to earn the ten days per month, as provided in subsection 2 of section 64, until he has served eighteen, instead of twelve months', imprisonment.

Over a period of two years this means a difference in the length of the sentence of sixty days. In this respect, your Commissioners are of the opinion that regulation 171 violates the spirit, if not the letter, of section 64 (2). While the tribunal sentencing the prisoner would have before it the provisions of the Penitentiary Act, the regulations passed thereunder are not published generally, and, in this way, it is quite probable that a prisoner would serve a longer sentence than intended by the sentencing authority. In England, the right to earn remission begins at the date of the commencement of the sentence. Your Commissioners are of the opinion that the regulations should be amended to make similar provision in Canada.

Your Commissioners are also of the opinion that regulation 176 is unduly harsh. It is quite conceivable that in many cases a difficult prisoner might quite rightly be subjected to a punishment involving the forfeiture of remission and, as a direct result of this punishment, the prisoner might determine on a new course of conduct during his confinement, which, in the opinion of the prison officials, would justify giving him an opportunity to recover the forfeited remission. The rules in force in England and other countries give discretion to the warden to permit a prisoner to re-earn his forfeited remission. Your Commissioners are of the opinion that the penitentiary regulations should be amended to make a similar provision in Canada.

Many complaints were made to the Commission in regard to the operation of subsection 3 of section 64, as interpreted by circular 11/35. The wardens have been instructed that if a prisoner is unable to labour, although through no fault of his own, he may not be allowed the usual remission. Toward the expiration of the prisoner's sentence, if the warden sees fit he may recommend the allowance of remission not exceeding three or five days (according to whether the prisoner has, or has not, earned credit for seventy-two days' remission). The effect of this regulation is that a prisoner who is ill, although of exemplary conduct, serves a longer sentence than a prisoner in good health. Your Commissioners are of the opinion that the regulations should be amended to give the wardens greater discretion in this matter. If the medical officer expresses the opinion that a prisoner is malingering, the warden may withhold the full remission during the period the prisoner is unable to work. If, on the other hand, there is no doubt that the prisoner is suffering from an illness for which he is not responsible, it seems unjust to subject him to greater detention than the prisoner who is in good health.

The interpretation of regulation 171, made by circular 11/35, paragraph 6, restricts the right to earn marks for industry to working days, and such marks are the basis of calculating remission. The following is a paragraph taken from the circular:

"The method of arriving at the amount of remission which may be allowed to a convict shall be as follows:

'Vide Penitentiary Regulation 171, after six months' imprisonment in the Penitentiary, a convict may be allowed three marks *for each working day* that his conduct is exemplary. He may also be allowed three marks *for each working day* that his industry and diligence are exemplary. The maximum number of marks that may be allowed to any one convict on any one day shall be six.'"

There is nothing in the act to suggest that the right of earning remission should not apply to every day of the week, and your Commissioners are of the opinion that this regulation operates in a provocative manner, which is irritating to the prisoners during the long hours of their confinement, especially on Sundays and holidays. In England, the prisoners are permitted to earn remission on Sunday according to conduct on that day and to the degree of industry shown by them during the week.

Many complaints have been made to your Commission regarding the interpretation of the regulations in regard to consecutive sentences. Since circular 11/35 was published, a prisoner who has been sentenced to a term in a penitentiary on one charge, followed by a further term on another charge, is allowed to earn less remission than if he had been sentenced to the aggregate terms on each charge to run concurrently. For example, if a prisoner is sentenced to a term of two years, to be followed by another of two years, with sentences to run consecutively, he would serve thirty-five days' longer in prison than if he had been sentenced to four years' imprisonment on each charge with sentences to run concurrently. In the former case, under the interpretation put on the present regulations, the prisoner who has been sentenced to consecutive sentences serves six months without earning any remission, and, after this, he may earn six days' per month remission until he has earned seventy-two days. After having earned seventy-two days' remission, he is entitled to earn ten days' remission per month until the expiration of his sentence. At the expiration of the first sentence of two years the prisoner must revert to earning six days per month on the second sentence. When he has earned seventy-two days on this sentence he is again permitted to earn ten days per month until the expiration of the second sentence. If, however, the prisoner had been sentenced to four years' imprisonment on each charge with sentences to run concurrently, he would commence to earn six days per month at the end of six months and, when he had earned seventy-two days' remission, he would then earn at the rate of ten days per month until the expiration of the four-year period. The English rule in respect to consecutive sentences is as follows:

"Where one term of imprisonment (including imprisonment in default of sureties) is by order of the Court consecutive to another term, the two will be treated for purposes of remission as one term. Where one sentence is partly concurrent with, but overlaps another, the overlapping sentence will wholly supersede the other for purposes of remission."

Your Commissioners are of the opinion that the provisions of the English rule should be adopted in Canada and that the whole question of remission should be revised to do away with the petty and vexatious regulations that have been engrafted on the statute by the interpretation contained in the Superintendent's circular 11/35. These regulations have been irritating and vexatious in their nature, in many instances unjust, and have resulted in serious disturbance of the discipline of the penitentiaries.

Remission being an incentive to good conduct, its principles should be easily understandable and the prisoners should be fully informed regarding the rules which govern it. They should also be informed periodically of the amount of remission earned so that they may realize the reward of good conduct. If mistakes have been made in calculating remission they should be simply and clearly adjustable so that the prisoners may be able to discern clearly that they are being dealt with according to law.

The Prisons and Reformatories Act contains a provision respecting the amount of remission that may be earned in provincial institutions. The number of days is limited to five for every month during which the prisoner is exemplary "in behaviour, industry and faithfulness, and does not violate any of the prison rules." If the prisoner is prevented from labouring by sickness, not intentionally produced by himself, he is entitled to earn remission by good conduct, but this is not to exceed two and one-half days for each month. The result is that a prisoner earns less remission in a reformatory than in a penitentiary. Your Commissioners are of the opinion that it would be advisable to have a uniform rule applicable alike to penitentiaries, prisons, and reformatories.

Remission by Royal Prerogative

In addition to the provisions of the Penitentiary Act and the Prisons and Reformatories Act, the Governor General may in the exercise of his royal prerogative of mercy remit any portion of the sentence imposed on any convicted person. This power, which is exercised in the commutation of the death sentence in capital cases and in the remission of corporal punishment, is also frequently exercised to effect an unconditional release from custody. The Under Secretary of State has informed your Commission that, during the year from 1st of October, 1936 to 30th of September, 1937, 493 prisoners were granted a remission of a portion of their sentences. In most of these cases the time remitted was short, often involving but a few days.

There will always be cases in the wise administration of justice where it is necessary to exercise the royal prerogative of mercy. No category of rules can be laid down in advance that will govern the principles that ought to be applied in any particular case. The prerogative is one of *mercy and grace*, not one of *right*. It should only be applied in cases where a gracious and merciful sovereign, having regard to the welfare of his subjects, would in his wisdom see fit to extend mercy, lest, by the rigorous enforcement of the law injustice be done.

At the present time, two officers of the government service handle all matters pertaining to remission. All applications for remission of sentence or for release on ticket-of-leave are made to the chief of the Remissions Branch in the Department of Justice. He supervises investigations and makes recommendations to the Minister of Justice who, in due course, advises the Governor General. The Governor General communicates his decision to the Secretary of State, and the latter makes the decision known to those concerned. This procedure involves the maintenance of a Remissions Branch in the offices of the Secretary of State as well as in the Department of Justice.

Your Commissioners are of the opinion that a certain amount of duplication is involved in this procedure. They recommend that the whole subject of remission should be dealt with by one authority operating under the Prison Commission herein recommended.

TICKET-OF-LEAVE

In Canada, a prisoner may be liberated under the provisions of the Ticket-of-Leave Act, R.S.C. 1927, chapter 197, quite independently of his right to earn a remission of sentence under the provisions of the Penitentiary Act.

The Ticket-of-Leave Act provides that the Governor General may, by order in writing under the hand and seal of the Secretary of State, grant to any prisoner under sentence of imprisonment in a penitentiary, jail, or other public or reformatory prison, a licence to be at large during such portion of his term of imprisonment and upon such conditions as to the Governor General may seem fit. Power is given to the Governor General to revoke or alter any such licence.

The licence is in form "A" to the Act, and contains the following conditions:

- "1. The holder shall preserve his licence, and produce it when called upon to do so by a magistrate or peace officer;
2. He shall abstain from any violation of the law;
3. He shall not habitually associate with notoriously bad characters, such as reputed thieves and prostitutes;
4. He shall not lead an idle and dissolute life without visible means of obtaining an honest living."

If any conditions other than those annexed to form "A," as set out above, are attached to the licence, a copy of the same shall be laid before both Houses of Parliament within twenty-one days after the making thereof if Parliament be then in session, and, if not, within fourteen days after the commencement of the next session of Parliament.

Under the provisions of the Act, every holder of a licence is required to report to the chief officer of police or the sheriff of the city, town, county, or district in which he resides, and, if he moves from one place to another, to notify these officers accordingly. Every male holder of a licence shall report once in every month to the chief of police or sheriff, as the case may be, or to such person as these officers may direct. The Governor General may, however, remit these requirements, either generally or in the case of any particular holder of a licence.

The statute applies to prisoners in jails and reformatories as well as to those in penitentiaries. The Governor General acts on the advice of the Minister of Justice and, in order that the Minister of Justice may be in a proper position to advise the Governor General, the Remissions Branch of the Department of Justice has been organized to deal with applications for ticket-of-leave under the provisions of the Ticket-of-Leave Act.

The Remissions Branch is presided over by an officer known as the Chief of the Remissions Branch, who has as assistants three officers seconded from the Royal Canadian Mounted Police.

The Branch does not attempt to compile case histories of the applicants in the ordinary sense of the term. The information that is acted upon is very meagre, and is gathered from three main sources:

1. A species of questionnaire completed by the prison officials. Their sources of information are chiefly the prisoner, himself, and the prison officers;
2. Reports from the sentencing judge or magistrate;
3. Letters and representations received on behalf of the prisoner from those in no way connected with the administration of justice. These too often appear to emanate from those purporting to have political influence.

There is no pretence at any organized inquiry into the social background of the prisoner or the conditions to which he will return if released. No definite rules have been promulgated. The Minister of Justice, speaking in the House of Commons on the 19th day of October, 1931, made the following general statement as to the practice:

"I will state generally what that practice is. I am not permitted by established rule of the department to go into details or make public reports or furnish particulars in regard to individual cases of prisoners. That information is not even furnished to the House of Commons. But I may state generally the rule which prevails. Where a prisoner is a first offender, and has not been found guilty of a crime involving violence or an attack upon women or a crime which may be described as a bestial crime, such as incest, and where the conduct of the prisoner while in prison has been satisfactory where there is no adverse report by the trial judge or magistrate—because in every instance these reports are obtained, then that prisoner will be granted a parole when he has served approximately half his term of imprisonment. He is then allowed, upon the conditions endorsed upon his ticket-of-leave, to serve the remainder of his term outside of prison walls.

This rule does of course admit of some exceptions, because there are cases where further confinement may endanger a man's life, or a serious operation or the like may have to be performed. These are considerations to which we must have regard. But the general rule and practice is as I have stated; no matter what the offence, except those special offences I have mentioned, any prisoner of whatever class who is serving a term for a first offence, not for a crime of violence, and whose conduct has been good and is so reported by the warden, may expect favourable consideration on an application for clemency when he has put in half his term. And in computing the half term, if the prisoner's conduct has been good he is allowed six days a month for good conduct by way of remission."

M. F. Gallagher, K.C., the chief of the Remissions Branch, appeared before the Commission and submitted a memorandum which purports to deal with the "rules of general application," which, he stated, governed

the practice of the Remissions Branch. The following relate to applications for release on ticket-of-leave.

As to sentence:

- (a) No interference in drug cases;
- (b) No interference until approximately one-half a sentence has been served.

As to prisoner:

- (a) No interference if a prisoner is a confirmed recidivist or an instinctive criminal;
- (b) No interference if a prisoner has been previously convicted of one major crime, or two intermediate, or several minor offences;
- (c) No interference if a prisoner was previously granted clemency;
- (d) No interference if a prisoner is under treatment for syphilis;
- (e) No interference unless reform is indicated.

As to procedure:

- (a) No submission to Governor General without investigation, i.e., reports from judicial and custodial authorities in all cases, and from an attorney general, police, and other sources, as required;
- (b) No investigation while a case is *sub judice*;
- (c) No investigation unless a prisoner is in custody;
- (d) No grant of clemency is made in advance;
- (e) No interference unless reform is indicated.
- (f) Advice to be tendered to the Minister upon analysis of merits in each individual case, following careful and impartial collection of necessary data.

The memorandum goes on to state:

"Operating within the scope of these rules, it has still been possible to grant Tickets of Leave to over 100 prisoners a month 'to assist in their further reformation.' Clemency is granted in such cases, upon clear indications of reform, sufficient punishment endured, and a reasonable prospect of rehabilitation. The favourable decision is grounded upon clement features which have been weighed along with those other considerations relating principally to public interest. In isolated instances, the clement features are so strong as to warrant exception being made to the general rules."

The memorandum lists clement features as follows:

"Clement features—without reference to their importance, which varies with cases, are listed as follows:

Ill-health;—impaired mentality;—youth, or great age;—sex;—assistance given to Crown;—improbability of guilt;—

extenuating circumstances;—technical offence;—a lack of criminal intent, which may be linked with youthful ignorance, persuasion of evil companions, self-defence, extraordinary provocation, mere thoughtlessness, etc.;—first offence with previous good character;—public interest served by mere conviction;—uncommon views of Magistrate, and finally error at trial reported by Judge.”

Your Commissioners are of the opinion that some of the rules are safe guiding principles to be applied to the administration of the Ticket-of-Leave Act. One such rule provides that no one who has once violated parole shall again be eligible for ticket-of-leave. Unfortunately, this rule has not always been followed, and its violation has been the cause of appalling tragedies. Other rules introduce principles which are entirely foreign to the purposes of the Act.

The purpose of the Act is to provide that, in proper cases prisoners who have served part of their sentence may have an opportunity to serve the remainder of it under licence at large. In order to determine which are the proper cases, the predominant consideration must be, has the prisoner formed a fixed determination to forsake his former habits and associates and to live as a law abiding citizen, and will he be assisted in that determination by being allowed to serve the balance of his sentence under supervision and at large?

Your Commissioners do not agree that all first offenders after having served half their sentences should, as a matter of course, be granted ticket-of-leave. A so-called first offender may be a man of bad record in the community who has been clever enough to evade the police authorities in the commission of countless offences. The mere fact that he has served half the sentence that has been imposed upon him by the court is no measure of his fitness to return to society.

On the other hand, your Commissioners do not agree that the report of the convicting magistrate or judge ought finally to determine the matter against the prisoner. Magistrates and judges are often called upon to make their reports several years after the accused has been sentenced. The whole purpose of the Act would be defeated if a prisoner who gives every indication of reform should be denied his release because the magistrate who tried him, but who has not seen him for several years, should report against his release. The report of the trial judge or magistrate is an important consideration, but it should not be conclusive.

Your Commissioners are of the opinion that the clemency features mentioned in the above quoted memorandum, with the exception of the special cases governed by ill-health, are not features which ought to be allowed to override the purposes of the Act.

Youth, age, and sex must all be taken into account in considering the reformation of the prisoner but not as a reason for departing from sound principles in deciding upon his release on ticket-of-leave.

Assistance given to the crown ought never to justify release on ticket-of-leave. Contribution of his assistance to the crown in order to procure his release on ticket-of-leave is little indication that a prisoner has reformed. It is contended by prisoners in the penitentiaries that certain inmates obtain recommendation for ticket-of-leave because of their services as spies among the inmates. If such practice exists, it is contemptible. No officer should afford the slightest justification for such complaints.

"Improbability of guilt" is not a matter for the remission officers. Guilt is for the courts. It is most unfair for one prisoner to have the merits of his case reviewed by the Remissions Branch while another has not. If there is any doubt as to a prisoner's guilt, the Minister of Justice should direct a new trial under section 1022 (2-a) of the Criminal Code, or refer the matter to the Court of Appeal under section 1022 (2-b) of the Criminal Code. It is essential to the fair administration of justice that all questions of guilt should be determined in open court. "Extenuating circumstances" are also matters for the courts.

It is difficult to understand why remission officers should review a matter for which a prisoner has been tried, found guilty, and sentenced, and label it a "technical offence," one in which there was "lack of criminal intent," or one attributable to "youthful ignorance," "persuasion of evil companions," "self-defence," "extraordinary provocation," "mere thoughtlessness," etc. These matters may in some cases be considered in remitting a portion of an excessive sentence, but should not influence the officers in considering the release of the prisoner on ticket-of-leave unless there is a reasonable probability that he will be rehabilitated if so released.

To proceed on any other principle would be to permit all sorts of undesirable representations being made on behalf of the prisoners. Your Commissioners are of the opinion that in the past officers of the Remissions Branch have listened to, and in some cases acted upon, representations which were not founded on sound principles. Undoubtedly, members of Parliament and those in positions of influence have had too much attention from the officers of the Remissions Branch. A perusal of the files in that Branch indicates that effect has been given to representations of this type, which are no more than appeals on grounds of compassion. When prisoners are released on ticket-of-leave on any other than sound principles it degrades the administration of justice and hampers the maintenance of discipline within the prisons.

The present system has been the subject of vigorous criticism for many years. The Chief Constables Association of Canada has repeatedly passed resolutions condemning its administration, but criticism by this association does not imply that the police officers are opposed to the principle of parole. In the proceedings of the 32nd annual convention of the Chief Constables Association, their views are expressed as follows:

"The police are not against parole,—the right kind of parole—nor are they against men who have served prison terms being aided

in being re-established in life. Undoubtedly parole was originated to give the first offender a chance to reform and rehabilitate himself. Any man convicted of a crime, if he displays a reasonable desire to do so, and providing his crime be not heinous, should be given a chance to make a new start in life. But when convicts with extensive criminal records against society are turned out of prison cells for no other apparent reason than that they have asked for it, or that they have conducted themselves according to the rules of the prison, then there is something wrong with the system under which individuals can obtain their release before completing their sentence."

With this statement your Commissioners agree.

The following record of the visits of representatives of the Remissions Branch to jails, reformatories, and penitentiaries shows the inefficiency of the present administration:

PROVINCIAL INSTITUTIONS

| Year | Headingly | | | Prince Albert | | | Regina | | | Oakalla | | | Lethbridge | | | Ft. Saskatchewan | | | Quebec | | | Bordeaux | | |
|-----------|-----------------|-----------------|----------------|-----------------|-----------------|----------------|-----------------|-----------------|----------------|-----------------|-----------------|----------------|-----------------|-----------------|----------------|------------------|-----------------|----------------|-----------------|-----------------|----------------|-----------------|-----------------|----------------|
| | Number of trips | Number of cases | Number of days | Number of trips | Number of cases | Number of days | Number of trips | Number of cases | Number of days | Number of trips | Number of cases | Number of days | Number of trips | Number of cases | Number of days | Number of trips | Number of cases | Number of days | Number of trips | Number of cases | Number of days | Number of trips | Number of cases | Number of days |
| 1933..... | | | | | | | | | | | | | | | | | | | 1 | 33 | 1 | 3 | 169-152-186 | 4-4-5 |
| 1934..... | 1 | 215 | 1 | 1 | 91 | 1 | 1 | 129 | 1 | 1 | 393 | 1 | 1 | 145 | 1 | 1 | 219 | 1 | 48 | 1 | 3 | 178-166-183 | 5-5-6 | |
| 1935..... | 1 | 100 | 1 | 1 | 69 | 1 | 1 | 131 | 1 | 1 | 356 | 1 | 1 | 74 | 1 | 1 | 205 | 1 | 41 | 1 | 2 | 172-189 | 6-6 | |
| 1936..... | 1 | 271 | 1 | 1 | 80 | 1 | 1 | 168 | 1 | 1 | 198 | 1 | 1 | 118 | 1 | 1 | 208 | 1 | 56 | 1 | 2 | 158-163 | 5-6 | |
| 1937..... | 1 | 157 | 1 | 1 | 70 | 1 | 1 | 159 | 1 | 1 | 206 | 1 | 1 | 77 | 1 | 1 | ..... | ..... | 42 | 1 | 3 | 188-160-188 | 6-5-6 | |

PENITENTIARIES

| Year | Br. Columbia | | | Saskatchewan | | | Manitoba | | | Kingston | | | Collin's Bay | | | St. Vincent de Paul | | | Dorchester | | |
|-----------|-----------------|-----------------|----------------|-----------------|-----------------|----------------|-----------------|-----------------|----------------|-----------------|-----------------|----------------|-----------------|-----------------|----------------|---------------------|-----------------|----------------|-----------------|-----------------|----------------|
| | Number of trips | Number of cases | Number of days | Number of trips | Number of cases | Number of days | Number of trips | Number of cases | Number of days | Number of trips | Number of cases | Number of days | Number of trips | Number of cases | Number of days | Number of trips | Number of cases | Number of days | Number of trips | Number of cases | Number of days |
| 1932..... | 1 | 51 | 1 | 1 | 47 | 1 | 1 | 53 | 1 | 1 | 64 | 2 | ..... | ..... | ..... | 1 | 130 | 3 | 1 | 86 | 3 |
| 1933..... | | | | | | | | | | 1 | 253 | 6 | 1 | 144 | 3 | 1 | 313 | 8 | 1 | 290 | 6 |
| 1934..... | 1 | 192 | 3 | 1 | 183 | 3 | 1 | 155 | 3 | ..... | ..... | ..... | ..... | ..... | ..... | 1 | 380 | 9 | 1 | 287 | 6 |
| 1935..... | 1 | 124 | 3 | 1 | 142 | 2 | 1 | 93 | 2 | ..... | ..... | ..... | ..... | ..... | ..... | 1 | 274 | 6 | 1 | 224 | 5 |
| 1936..... | 1 | 84 | 2 | 1 | 120 | 2 | 1 | 81 | 2 | 1 | 243 | 6 | 1 | 85 | 2 | 1 | 256 | 6 | 1 | 176 | 5 |
| 1937..... | 1 | 82 | 2 | 1 | 140 | 2 | 1 | 60 | 2 | ..... | * | ..... | ..... | * | ..... | 1 | 250 | 6 | 1 | 168 | 5 |

* Will be visited in November

October 29, 1937.

It will be observed that, in the year 1936, twenty-five days were spent in the penitentiaries by representatives of the Remissions Branch, during which they dealt with 1,045 cases, or 41.8 cases per day. No institution was visited more than once during the year.

In the same year, the eight provincial institutions were, with one exception, visited only once. Eighteen days in all were spent in these visits and 1,420 cases were dealt with.

The institutions in Ontario have not been visited during the last five years. The reason given for this is that Ontario has its own board of parole. The Ontario Board of Parole, however, has no jurisdiction over determinate sentences, and the explanation given forms no justification for neglecting Ontario institutions.

Your Commissioners are of the opinion that an efficient well-organized system of parole operating under the provisions of the Ticket-of-Leave Act is a necessary part of our penal system. It provides a means of giving a worthy prisoner an opportunity to become rehabilitated under supervision. If a system of parole is to be successful and if it is to obtain public confidence, it is essential that means be provided for full investigation and report before release and adequate supervision after release. It is essential, moreover, that in order that the Act may be properly administered it should be removed from any suggestion of political influence.

Your Commissioners recommend that the administration of the Ticket-of-Leave Act should be brought under the direction of the Prison Commission herein recommended.

Provision should be made for the appointment of a parole officer in each of the provinces, or in each group of the more thinly populated provinces, so that responsibility and authority will be centralized. The duty of these officers would be to receive, and deal with, each application for parole (ticket-of-leave), interview the individual applicant, and arrange that proper case histories should be prepared. There would be no more need for lengthy petitions signed by citizens, reciting the reasons for release. Any prisoner would be entitled by right to put his name on the list prepared for the visit of the parole officer and be interviewed by him. In this connection, he would have the co-operation of the probation officers whose services should be enlisted to supervise the prisoner when released. The Prison Commission would be given authority, on the recommendation of the parole officer, to release the prisoner on ticket-of-leave only on receipt of satisfactory reports on the recommendations of proper officers. "Influence" should be disregarded with the same scruples as it is in the administration of justice in the courts.

Any expense that might be involved in putting this plan into effect would be more than counterbalanced by the reduction in the prison population because of the rehabilitation of prisoners.

INDETERMINATE SENTENCES AND PAROLE

Under the provisions of the Prisons and Reformatories Act R.S.C., 1927, chapter 143, section 46, when a prisoner is convicted in the province of Ontario of an offence against the laws of Canada that is punish-

able by imprisonment in the common jail for a term of three months or for any longer term, the court may sentence the prisoner to imprisonment for a term of not less than three months, and for an indeterminate period thereafter of not more than two years less one day in the Ontario Reformatory instead of in a common jail of the judicial district in which the offence was committed.

Under section 43 of the same Act, the Lieutenant-Governor of the province of Ontario is given power to appoint a board of parole to inquire from time to time into the cases of prisoners sentenced to the reformatories, and to permit prisoners serving indeterminate sentences to be paroled "under conditions approved of by the Minister of Justice." When the terms on which such prisoners have been paroled have been complied with, the board may recommend for the consideration of the Minister of Justice the final discharge of such prisoners.

The provision in regard to indeterminate sentences has been in force in Ontario since 1913, and the provision in regard to the establishment of the board of parole has been in force since 1916. These provisions have not been extended to any other province of Canada. Your Commissioners have been unable to find evidence that after over twenty years' trial the operation of indeterminate sentences has been satisfactory. Much criticism has been levelled against the boards of parole, but your Commissioners do not believe that it is necessary for them to consider the merits of these boards. They are convinced, however, that the most serious difficulty is not so much a matter of the duties to be performed by the boards of parole as the education of judicial authorities throughout the provinces in the proper application of indeterminate sentences.

The whole matter of indeterminate sentences and parole came before the Ontario Court of Appeal in April, 1937. This was an appeal by one, Leonard Bond, from a sentence of two years less a day to the Ontario Reformatory at Guelph and an indeterminate sentence thereafter not exceeding two years less a day. The court was presided over by Rowell, C.J.O., Middleton and Masten, J.J.A. The judgment of the court was delivered on the 25th of May, 1937, by Middleton, J.A.

In the "Reasons for Judgment" the learned judge exhaustively considered the underlying principles to be applied to indeterminate sentences and on parole thereunder. It appears from the judgment that in the province of Ontario magistrates have been sentencing accused persons with long criminal records to the reformatories at Guelph and Burwash for determinate periods and for indeterminate periods thereafter. An examination of the records at the reformatory at Burwash by one of your Commissioners disclosed that the observations of the Court of Appeal in this regard were well founded. The member of your Commission who made this examination selected at random the names under the letter "T." The records disclosed were as follows:

No. 1—

1930.—One conviction for theft; sentenced to the reformatory for twelve months;

1930.—Two convictions for burglary and theft; four years in the penitentiary;

1930.—One conviction for escaping; two years penitentiary;

1933.—One conviction for participating in riot; six months;

1936.—Two convictions for receiving; sentenced to two years less one day determinate plus two years less one day indeterminate.

No. 2—

1936.—Sentenced to twelve months determinate and eight months indeterminate in the Ontario Reformatory on charges of possession of house-breaking implements, illegal possession of drugs, and theft. This prisoner had five previous convictions for small thefts. His file disclosed he had been a drug addict for four years.

No. 3—

1921.—Convicted of breaking and entering;

1930.—Convicted in Detroit of breaking and entering; sentenced to three years determinate and fifteen years indeterminate;

1933.—Convicted on five charges of housebreaking; remanded for sentence on probation;

1935.—Convicted for assault; sentenced to thirty days in jail;

1936.—Convicted for shopbreaking; sentenced to two years less a day determinate and three months indeterminate.

No. 4—

This prisoner was first convicted in 1920 for fraud, and committed as a lunatic;

1928.—Convicted on a charge of false pretences, and sentenced to a term of six months determinate and eighteen months indeterminate in the Ontario Reformatory;

1929.—Released on parole;

1930.—Convicted in the state of Minneapolis for forgery, and sentenced to a term from nothing to ten years in the State Reformatory;

1936.—Convicted on seven charges of theft and three charges of false pretences; sentenced to serve a term of two years less a day determinate and two years less a day indeterminate in the Ontario Reformatory.

No. 5—

This prisoner first came before the courts in 1932 on a charge of theft from his employer, when he made restitution, paid the costs, and the charge was withdrawn;

1933.—He was again charged with theft from his employer and ordered to pay the sum of money or receive three months in jail;

- 1934.—He was again charged with theft from his employer and received one year suspended sentence;
- 1935.—Charged with theft of an auto and received a sentence of one year in the reformatory;
- 1936.—He was charged with theft from the person, and was sentenced to a term of six months determinate and eighteen months indeterminate in the Ontario Reformatory.

No. 6—

This prisoner first came before the courts in 1934 on a charge of theft, which was withdrawn. In the same year he was charged with obtaining food and lodging by false pretences, and allowed to go at large on making restitution. In the same year he was again charged with obtaining money by false pretences and given one year suspended sentence;

1936.—He was convicted on four charges of false pretences and sentenced to six months in the reformatory;

1937.—He was charged with an attempt to obtain money by false pretences, and sentenced to a period of three months determinate and three months indeterminate.

1937.—The prisoner was convicted on a charge of obtaining money by false pretences and sentenced to a term in the reformatory of one year determinate and one year indeterminate.

Mr. C. F. Neelands, the Deputy Provincial Secretary of the province of Ontario, who is charged with the duty of superintending the jails and reformatories in that province, stated that, until the matter was brought before the Court of Appeal, the cases above noted were average examples of the class in which indeterminate sentences had been imposed.

The Honourable Mr. Justice Middleton pointed out in his "Reasons for Judgment" that it has been the practice of the Board of Parole to refuse consideration for parole, except in unusual cases, to prisoners who have previous records. His Lordship also pointed out that many judges and magistrates when imposing indeterminate sentences were wont to address the prisoner in terms such as the following:

"It is my duty to impose upon you the sentence your crime deserves. Your crime, according to the Code, would authorize me to direct your imprisonment for.....years. I have confidence in your ability to resist temptation and to reform. I shall impose upon you a determinate term of.....months as a punishment for the offence you have committed, and I shall direct that you thereafter serve an indeterminate term of..... If, during this determinate term, you prove yourself to be a good prisoner and comply with the rules of the institution and show a disposition to be law abiding, the Parole Board may at the expiry of the definite

term allow you your liberty. It all depends upon yourself and your conduct as to how much, if any, of the indefinite term you may be called upon to serve."

His Lordship went on to say:

"Thus encouraged, the prisoner proves to be a model prisoner. He gives every indication of his reformation, and is taken at the expiry of the definite term before the Board. He is hopeful of liberty and full of good resolutions, and the Board announces that by reason of an earlier conviction, a fact well known to the Judge who imposed the sentence, they will not allow him parole and he must serve the indefinite term. I can imagine no situation more cruel and more likely to convert a man really desiring to reform into an enemy of society."

Your Commissioners are of the opinion that if indeterminate sentences are to be continued in the province of Ontario there should not be such conflict between the Board of Parole and the judges and magistrates in the province. It is clear that judges and magistrates should not sentence prisoners to the Ontario Reformatory for indeterminate periods when, having regard to the prisoner's previous record and his opportunities for reform, it is clear that he is not likely to be a good subject for parole at the end of the determinate period. As has been pointed out, the success of a prisoner on parole does not depend on his behaviour in prison, but on his will and determination to conform to the laws of the country and the conventions of society and on the likelihood of his carrying out that determination under proper supervision.

The efforts of the authorities who are in charge of the reformatories in Ontario are greatly handicapped by the practice of sentencing incorrigible criminals to the reformatories, by means of imposing indeterminate sentences, for longer periods than would otherwise be justifiable under the Act. Mr. Neelands drew the attention of your Commission to one case in which a prisoner was sentenced to the reformatory for terms of two years less one day determinate plus two years less a day indeterminate on each of two charges which were to run consecutively, with the result that the prisoner was required to serve a term in the reformatory of eight years less four days. Your Commissioners are of the opinion that this was not the intention of Parliament when the legislation was enacted.

Following the judgment of the Court of Appeal in May, 1937, Mr. I. A. Humphries, K.C., the Deputy Attorney General for the province of Ontario, sent out a circular letter to all magistrates and county judges, enclosing a copy of the "Reasons for Judgment" of the Court of Appeal, and adding certain observations thereon. These observations may be summarized as follows:

1. The period of the indeterminate sentence should bear some relation to the period of the determinate sentence. For instance, a definite sentence of three months should not be followed by an indeterminate sentence of two years less a day;

2. Consecutive indeterminate sentences should not be given;
3. In no case should the court state to the prisoner what the action of the Board of Parole may be, or the considerations which may impel the Board of Parole to release the prisoner.

It appears that this letter has had some effect in correcting the situation that had previously existed in respect to indeterminate sentences.

Your Commissioners are of the opinion that, if the recommendations of this Commission are adopted in respect to the establishment of an adult probation system, and a central parole board is established to administer the Ticket-of-Leave Act, with adequate investigation and supervision in the provinces and an adequate system for the treatment of young offenders in the prisons, the present statutory provision for indeterminate sentences in Ontario might be repealed.

CHAPTER XXI

REHABILITATION ON RELEASE

It would be redundant to stress the principle that some definite assistance must be given to prisoners when they are released from custody and faced with the problem of their re-entry into society. Unless this principle is more universally accepted by the general public and given more effective application by federal and provincial Governments, certain obvious consequences will follow, and imprisonment under present conditions will, in most instances, have but two major results: first, the temporary removal of the prisoner from society, thereby preventing him during that period from committing any further crime; and, second, branding him forever, even if he is reformed, as an outcast from society no longer worthy of trust or help.

Such an eminent authority as the Lord Chief Justice of England, Lord Hewart of Bury, succinctly summarized the situation in an address delivered at a meeting of a discharged prisoners' aid society in England, when he stated:

"It would be grotesque and silly to imagine that the duty society owes to them is completed when imprisonment is ended. It is then that the real struggle begins. How often have I heard it said of men and women that their real punishment begins on the day they go out of prison.

When you think of the number in prison who might very well not be there and of the number outside who might very well be in, there is no great difficulty in ascertaining the kind of duty which society owes to those who are unfortunate to be inside. I often wonder when I see prisoners in the dock or in a penal establishment, whether the people outside the prison are really worth the sacrifice which they compel the people in prison to make.

No doubt prison, with all its appalling faults is necessary until we can find a better substitute. But at least society does owe to those unfortunate persons—some are no doubt wicked—but all are unfortunate—the duty of helping them as far as may be."¹

Elsewhere in this report tables will be found which show the alarming growth of recidivism in Canada. Your Commissioners are convinced that this increase is to a great extent due to two factors: first, the absence of any serious attempt to effect the reformation of the prisoner while he is incarcerated, which is dealt with throughout this report, and, second, the failure to provide him on release with adequate assistance to enable him to obtain honest work and support himself and his dependents.

¹ Address delivered at the annual meeting of the Holloway Discharged Prisoners' Aid Society, April, 1936. (Quoted in report of the Executive Secretary of the John Howard Society of British Columbia, March 3rd, 1937.)

When on release the prisoner finds himself confronted with the world he is under a grave handicap from long confinement. He has been more or less shut off from the outside world with little knowledge of what is going on there. Apart from illicit sources of information, his only news is derived from any infrequent visits he may receive from members of his family, a restricted number of letters from the same source, and a résumé of public events that is given to him once a week by the prison officials. If he has no family, or one which has lost interest in him, he is still more restricted. These are his only sources of information. Conditions under which he spends his time in the penitentiary and the demoralizing effects of such a life have been dealt with in another part of this report.¹ They result in another handicap that must be overcome if the prisoner is to effect his rehabilitation in the world. When his sentence has expired, he is furnished with clothing made in the penitentiary, which is often all but labelled as such, given a small amount of money, which he has earned during his imprisonment, provided with transportation to the place where he was sentenced, which may be, and often is, hundreds of miles from his home, and told to "go and sin no more."

According to the annual report of the Superintendent of Penitentiaries for the year 1936-37, during that period seventy-two per cent of the penitentiary inmates were recidivists. Sooner or later at least ninety-five per cent of our present penitentiary inmates are released, and it must follow, therefore, that at least two out of three of these will again sooner or later commit crimes against the state and be returned to prison. It cannot be concluded that, even if given proper after-care, none of these would ever again become involved with the law, but your Commissioners are convinced that, if given the opportunity, a great number of them would become useful citizens and remain so for the balance of their lives.

Any system of after-care must provide for contact with the prisoner before he is liberated. Mr. Alexander Maxwell, when chairman of the Prison Commission of England and Wales in 1932, stated:

"No system of aftercare for discharged prisoners will ever be effective until full investigations into the man's home surroundings, or absence of home surroundings, are made, and plans for his after-care are completed before the day arrives for his discharge into the world again."

Under the heading "Assistance of Liberated Prisoners," in the rules drawn up by the International Penal and Penitentiary Commission, the following appears:

"The assistance given to prisoners for the period after liberation demands most careful attention. This assistance should begin during the period of detention and should be based upon an exact study of the personality of the prisoner, his conditions of life and those of his relations. Its object should be to give to the discharged prisoner the possibility of leading henceforth a straight and regular life."

¹ Chapter VIII.

For a number of years, organizations have been in existence in different parts of Canada that were formed for the purpose of assisting prisoners to re-establish themselves on their release from prison. The following appeared before the Commission: The Prisoners' Welfare Association, Halifax; The Prisoners' Aid and Welfare Association of Montreal, Inc.; La Jeunesse Ouvrière Catholique, Montreal; The Prisoners' Rehabilitation Society, Toronto; The John Howard Society of British Columbia, Vancouver; The Prisoners' Welfare Committee of the Regina Welfare Bureau, Regina; The Manitoba Prisoners' Aid Association, Winnipeg, and the Salvation Army.

These organizations are doing valuable work in their respective fields and should be commended for their public-spirited efforts. Unfortunately, these efforts are severely handicapped in many ways. Financial support is obtained mainly by voluntary subscriptions from the public. In some provinces a small government grant is provided, but no adequate financial assistance is given by most of them, and no regular contribution is made by the federal Government. No co-ordination exists between the various organizations whereby a definite uniform program can be followed throughout the Dominion, and this undoubtedly detracts from the usefulness of their work. Instead of receiving the hearty co-operation and assistance of the penitentiary authorities, who, it might be expected, would welcome such offers of assistance, these organizations find in too many instances that their efforts are largely nullified by the regulations and the manner in which they are interpreted.

The penitentiary regulations governing prisoners' welfare associations are as follows:

"114. The Warden may at such time as he may arrange before the release of a convict, at the request of the convict, permit him or her to be interviewed by a duly authorized representative of the Salvation Army or any recognized Prisoners' Welfare Association or Society, with a view to assisting the convict to re-establish himself or herself after release from the Penitentiary.

115. Such interview shall be held in the visiting cage or some suitable place to be arranged by the Warden, an officer being present throughout the interview. Representatives of the above mentioned organizations shall not be permitted access to other parts of the Penitentiary.

116. Should the Salvation Army or any recognized Prisoners' Welfare Association or Society make a request to have an interviewing representative authorized, the name of the person sought to be authorized, and the Association or Society to which he belongs, shall be submitted to the Superintendent for approval."

Regulation 114 provides that representatives of these associations may only be permitted to interview a prisoner before release "*at the request of the convict.*" Regulation 115 provides that such interviews shall be held in the visiting cage "or some suitable place to be arranged by the

Warden," and that an officer shall be present throughout the interview. It also provides that these representatives shall be denied access to other parts of the penitentiary.

The underlined words forming part of regulation 114 practically nullify the attempts of association representatives to get in touch with the prisoners, because the latter have no knowledge of these regulations and the notice posted up in their cells does not mention them. Furthermore, for obvious reasons many prisoners would not request an interview even if they knew they were permitted to do so, and these include a great percentage of those who are most in need of such assistance.

Formerly, it had been possible to make arrangements whereby the representatives of these associations could interview the prisoners either at the request of the latter *or by arrangement with the warden*, and at one penitentiary a list of the prisoners to be released during the following month was for a time supplied by the warden to the local association. Under this arrangement, the representatives of the association were able to arrange interviews with such prisoners and secure a great deal of information regarding their future plans, where they intended to go, what were the circumstances of their families, and what work would be most suitable for them. This information was of the greatest value to the association in its efforts to find work and provide other assistance for the prisoners on release. After a few months, however, the arrangement with the association was revoked and the practice as set out in regulation 114 was put into effect. The Superintendent of Penitentiaries was unable to offer any adequate reason for making this change, which so seriously impeded the effectiveness of the association's activities, and your Commissioners find themselves unable to discover any such reason.

Your Commissioners are further of the opinion that such interviews should be held in the prisoner's cell or some room other than the visiting cage—if necessary within sight, but not within hearing, of an officer. If officers are to be silent participants in such interviews many prisoners will refuse to discuss their personal affairs with the representative.

From evidence obtained by the Commission it is apparent that the associations are accomplishing very little at any of the Canadian penitentiaries. At Dorchester, Kingston, Manitoba, and Saskatchewan penitentiaries no efforts of any importance are being made by local associations. At St. Vincent de Paul Penitentiary the Prisoners' Aid and Welfare Association of Montreal and La Jeunesse Ouvrière Catholique are attempting, under the difficulties already mentioned, to achieve some satisfactory results, and at British Columbia Penitentiary the John Howard Society of British Columbia is doing much useful work.

Prisoner's Pay

The pay of prisoners in Canadian penitentiaries, which has been dealt with in another part of this report,¹ provides them with a minimum of ten dollars each, on which, in lieu of private means, they must subsist until they have found employment. At least a portion of such money

¹ Chapter IX.

has been earned by industry and, when it has been placed to the credit of a prisoner, it is, or should be, considered his property. There have been many instances, however, where this money has been withheld from the prisoner and retained by the authorities. This has been done by virtue of penitentiary regulation 184, which is as follows:

"If a convict is being released or discharged, either by expiration of sentence, conditional liberation, or otherwise, and it is known to the Warden that he will be rearrested and taken into custody immediately on his release and discharge, the Warden shall furnish such convict with a sum not exceeding one dollar and fifty cents. The arresting authorities will be responsible for the transportation expenses of the convict from the Penitentiary to his destination."

This regulation was put into force at a time when prisoners were not being given any remuneration. On release they could be given a sum of money not exceeding \$10, as provided by the Penitentiary Act. It will be noted that payment of this sum was optional, and prisoners were not entitled to it as a right. In spite of the change, however, the authorities still consider that the moneys *earned* by prisoners can be disposed of in the same way. This practice has caused a great deal of discontent among the prisoners, who feel that, having earned this money, they should receive it on discharge.

Regulation 184 affects two classes of prisoners, those held for deportation, and those re-arrested and transferred to other custodial authorities. The money withheld from deportees is retained on the ground that a similar practice prevails in other countries and that Canadian prisoners who are deported to Canada on release from custody do not receive the money they may have earned in the country from which they have been deported. There may be some justification for adopting this principle until reciprocal arrangements are entered into with other countries, particularly the United States of America. With regard to the second class, however, there seems to be no adequate justification for retaining the money earned by prisoners during custody. If a prisoner is re-arrested on his release, and convicted, and sentenced to prison on another charge, it might be in his interest to hold such money until his release from the second institution, or to hand it over to his dependents to assist in their support during his imprisonment. The practice, as authorized by regulation 184, has resulted in many instances of injustice, and it is difficult to understand the position of the penitentiary authorities in regard thereto. The following instances that were brought to the attention of your Commissioners will illustrate the point.

Prisoner "A" was released from the penitentiary and, on instructions from a provincial official, was handed over to the custody of the local police as a parole violator from a provincial institution. While still in the custody of the local police, the latter were notified that since prisoner "A" had been handed over to them penitentiary officials had received instructions from the provincial authorities to release him. As a result, prisoner "A" was released by the local police but, under the

interpretation given to regulation 184, he did not receive the money to his credit at the penitentiary because he had been "taken into custody immediately on his release and discharge."

Prisoner "B" was to be released from the penitentiary on the expiration of his sentence, but, before that date, the penitentiary authorities were requested by the provincial authorities to hold him as a parole violator. Two days before he was released the provincial authorities wired the penitentiary cancelling their earlier order to hold the prisoner. As a result, on release prisoner "B" was given the money he had earned.

The circumstances in both these cases are practically the same, and both prisoners were eventually released, but because the order from the provincial authorities for the release of prisoner "A" had come *after* he had been handed over to the local authorities he did not receive any money, whereas prisoner "B," the order for whose re-arrest by the provincial authorities had been cancelled *before* his release, did receive the money that had been credited to him.

It is instances such as these that cause prisoners to lose their faith in prison justice and to leave prison thoroughly embittered and anti-social. Moreover, when a prisoner knows he is subject to rearrest and that, therefore, he is not eligible to receive his earnings, he is more apt to rebel against prison regulations and to become a trouble maker.

Regulation 182 provides that, if a prisoner has not more than ten dollars due him from his prison pay, a sum not exceeding this amount shall be given to him on discharge and he shall be given transportation to the place where he was sentenced. Your Commissioners believe that, in deserving cases transportation should be furnished, not to the place of the prisoner's conviction, but to his home, even though this might entail some further expense to the Government. The present regulation undoubtedly results in the commission of further crimes and, when a prisoner has previous knowledge of the regulation, acts as a deterrent to his reformation. This applies particularly to young first offenders. A youth, who may live in Ottawa but who is convicted in Vancouver and sent to British Columbia Penitentiary, will be given transportation to Vancouver and not to Ottawa when he is released. As an "ex-convict" in a city far distant from his home, and without friends, his chances of success in finding employment will be extremely small and he may quickly be confronted with the alternative of starving or stealing. If he is driven to the latter alternative his previous conviction will count against him and his second sentence will be more severe. During his second sentence he will be convinced of the hopelessness of recovering a place in society and will issue forth the second time as an habitual recidivist offender. Had he been given transportation to his home he might have profited by his experience, and, with the help of his family, have settled down to become a useful member of society.

When prisoners' aid societies come directly under the supervision of the Government, consideration should be given to evolving a working

agreement with them whereby the prisoners' pay may be administered in proper cases through these societies, so that the temptation to dissipate it may be minimized.

Discharge Clothing

During the visits of your Commissioners to the different penitentiaries in Canada they had an opportunity of examining the clothing provided for the prisoners on their discharge. The cloth used in the manufacture of these suits and overcoats is usually of fair quality, although in some cases it is not. The principal criticism is that such clothing is not properly measured or fitted and the prisoner is often given a suit or overcoat many sizes too large or small. The quality of the hats and caps might be improved with little cost to the Government. Your Commissioners are of the opinion that, except in cases of prisoners released under ticket-of-leave, there is ample time to have clothing properly measured and properly fitted.

Visits and Communications

Probably nothing can exert a more wholesome influence on the conduct of a prisoner than the receipt of visits or letters from members of his family. Such communications should be encouraged, and the regulations concerning them should be made as elastic and reasonable as the circumstances will permit. After observing the operation of the present system in Canadian penitentiaries, your Commissioners have reached the conclusion that the regulations governing such communications are altogether too stringent and that too often they are carried out in a manner antagonistic to the prisoner and his family.

The important bearing of visits and letters on a prisoner's life after his release justifies the enumeration of the principal objections to the present regulations:

Visits

1. Visits are usually too short, especially when a relative, because of financial reasons or the distance from his home, is only able to come to the penitentiary on rare occasions.

2. The prisoner is often given no time to shave himself before a visit and must appear before his parents or children with a growth of hair on his face.

3. Conversations take place in the visiting cage through bars and screens that sometimes have a double close mesh. Regulation 105 provides that a male prisoner may receive a visit from his mother, wife, sister, grandmother, daughter-in-law, and his son or sons when under sixteen years of age, across a counter in a visiting room instead of through wire in the ordinary cage. Regulation 106 provides that a female prisoner may receive a visit from her husband, the females above mentioned, and her son or sons when under sixteen years of age, in similar circumstances. This provision has not been carried out in any of

our penitentiaries and your Commissioners are of the opinion that a visiting room, such as is contemplated by regulation 105, should be provided and used for all visiting purposes except when the prison authorities may decide that, in the interests of security, the use of a cage is necessary.

4. No visits are permitted on Saturdays, Sundays, or holidays, although this may be the only time when relatives are able, without losing pay, to leave their employment.

5. Regulation 101 lists those who may be permitted to visit inmates. This list should be amended to add the following: uncle, step-father, step-mother, half-brother, half-sister, step-daughter, step-son, and cousin. Any of these should be permitted to visit the prisoner at the discretion of the warden, and no hard or fast rules should be allowed to keep a prisoner from obtaining visits from anyone whose influence would assist in his reformation.

Your Commissioners also recommend the installation of metal detectors, such as are installed in some institutions in the United States, in the admission rooms of every penitentiary. They are not expensive, and yet provide an efficient safeguard against weapons or metal instruments being brought in by visitors.

Communications

1. The rules regarding the censorship of communications should be less stringent in their application.

2. The writing paper that is provided for the prisoners should not have regulations printed on the back, because anyone who is shown such a letter will know that the sender is in a penitentiary. Instead, a separate sheet containing the prison regulations could be enclosed in the first letter sent from the institution. The list of those entitled to receive or send letters should be amended to include the additions recommended to be made to the visiting list, and should also include clergymen of the prisoner's faith. While it is recognized that some regulations must be laid down to limit the list of those who may receive from, or write a letter to, a prisoner, more authority should be vested in wardens to allow exceptions to the rule. Numerous instances have been brought to the attention of the Commission where the absence of such discretion has occasioned considerable trouble between the prisoners and their families. Christmas and Easter cards from the persons already mentioned, and newspaper clippings regarding the death of relatives, should also be permitted. The custom of stamping photographs received at the penitentiaries with the penitentiary stamp should be abolished and some other means of identification adopted that will not mar the photographs. Prisoners should also be allowed to receive a letter or a photograph from a relative who is an ex-prisoner but who has since reformed and become rehabilitated. When letters or parcels are withheld or destroyed because of the provisions of regulation 127, the inmate should be notified. No such notification is given at present, and on more than one occasion this

has been the cause of estrangement between members of a family because the receipt of the letters or parcels has not been acknowledged or any explanation given for the omission.

3. In special cases it should be possible for a prisoner to write a letter to a close relative without the receiver knowing that the sender is in prison. The present practice deters many prisoners from writing home, and their parents have no knowledge as to whether they are alive or dead.

Realizing the importance of the whole question of rehabilitation and after-care, and having become convinced that some comprehensive scheme dealing with this subject should be adopted in Canada, your Commissioners have made a careful study of the systems in use in other countries. Most countries appear to have attached more importance to the necessity of giving some tangible assistance to the discharged prisoner than Canada. While recognizing the merits of other systems, your Commissioners are of the opinion that the system prevailing in England, Wales, and Scotland is best suited for adaptation to Canadian conditions. In England and Wales, rehabilitation activities are divided into two parts: those in connection with prisoners serving sentences of penal servitude (not less than three years), who are classed as convicts, and those committed to prison for sentence up to two years. The first class corresponds more or less to inmates of Canadian penitentiaries, and the second class to those confined in various provincial institutions.

After-Care Treatment of Convicts

The first class is attended to by the Central Association for the Aid of Discharged Convicts, which was formed in 1911. Its objects are: (a) to combine, in one organized effort, all persons and agencies engaged in the work of assisting discharged convicts; (b) to effect economies in operation, and to prevent overlapping; (c) to strengthen the hands of those who are engaged in assisting convicts, and to render their work more effective. Its officers consist of a president, who is the Home Secretary, a chairman of the council, who is the chairman of the Prison Commission for England and Wales, and a council consisting of representatives of the principal societies engaged in the work of assisting discharged convicts. The societies represented on the council are the Catholic Prisoners Aid Society, the Church Army, the Church of England Temperance Society, the United Synagogue Discharged Prisoners Aid Society, and the Methodist Prison Committee. All these societies actively co-operate in the work of the association, and some hundreds of experienced social workers act as associates throughout England. The Salvation Army also assists in special cases. The head office of the association is in London, and it has a branch office at Liverpool that deals with cases discharged in that area.

The essentials of after-care, as laid down by the association, are as follows:

1. Contact must be established before discharge in order to gain confidence and co-operation;

2. Arrangements must be made with an agent or associate in the district chosen by the discharged convict as his future place of residence,
 - (a) to find work,
 - (b) to establish him in a home or lodging,
 - (c) to act as a point of reference and appeal,
 - (d) to provide maintenance, working clothes and, if necessary, tools;
3. On discharge, suitable clothing, travelling facilities, and cash for the journey must be provided.

The administrative expenses of the association and expenditures for fares, clothing, tools, stock, and maintenance are included in the Treasury appropriation for the Prison Commission. This sum is estimated annually and is subject to the usual Treasury audit. Grants have also been obtained from certain trust funds, and also through contributions made by friends of prisoners for use in individual cases. A bi-monthly visit is made to all convict prisons by a representative of the association who interviews men noted for discharge within three months. Each prisoner is interviewed by a representative at least twice before his discharge. On the first occasion, which is some time during a period of three or four months before discharge, the prisoner's plans and prospective employment are discussed. On the second occasion, which is a month or two before discharge, the convict is notified of the arrangements which have been made on his behalf. The convicts are interviewed in private and an opportunity is afforded to every man to hold a full and frank discussion of his hopes and opportunities.

After the first interview the association arranges with the appropriate associate for the man's reception and material assistance on discharge. The associates include voluntary organizations, probation officers, local discharged prisoners' aid societies, Toc H, and many others throughout the whole of Great Britain.

On the prisoner's release he is given a railway ticket to his destination and a small sum of pocket money for travelling expenses. He is instructed to report to his local associate, who, in addition, arranges for his maintenance for at least a fortnight and helps him in his search for employment. Four out-door men are permanently employed by the association to seek new work outlets, visit homes, supervise discharged prisoners, and maintain continual touch with employers with whom they have already established friendly relations, and make new contacts with others. When work has been found for a discharged prisoner, a suitable working outfit and, if necessary, tools of his trade are provided. In some cases stocks for street hawkers are provided. All expenses incurred by the associates are refunded by the central office and, when required, a small honorarium is sometimes paid.

The association has also been entrusted with the supervision of men discharged from preventive detention on licence. Such cases do not then have to report to the police, and the association is responsible to the

Home Office for the supervision of these persons during the period of their licences. The association also supervises a number of first offenders who have been excused from reporting to the police on condition that they keep in touch with the association during the period of their licences.

In the event of any difficulty the associate advises and helps the discharged prisoner to become more firmly established and, in general, acts as an adviser to whom the convict may at all times appeal.

Generally the association arranges to support a prisoner for at least a fortnight after his release, because, even if he secures employment during the first week, he does not draw pay until the end of the second week. In the case of a man still unemployed at the end of the second week and, where there appears little prospect of his securing immediate work, he will have needed this time to get in touch with the necessary relief authorities. In other cases, where there is some prospect of employment in the near future, assistance is continued at a general rate of twenty-five shillings per week.

After-Care Treatment of Prisoners

In England and Wales, assistance to prisoners discharged from local prisons, as distinct from convict establishments, is given through the medium of about fifty local discharged prisoners' aid societies, in addition to special societies dealing with Roman Catholic and Jewish prisoners. The local societies have a long history, generally associated with the old county prisons. In the days when almost every county had a prison, every prison had a prisoners' aid society, which was conducted entirely by voluntary effort. Many of these societies were founded as long ago as the early years of the Eighteenth Century.

During the last twenty-five years many changes have taken place in the administration of prisons, and a large number of the old county prisons have been closed. For many years these societies continued in the old way, without receiving any official recognition or financial aid from the Government. In 1862, however, statutory recognition was given to them and certificates were issued to societies able to attain a proper standard. The Discharged Prisoners Aid Act permitted justices of the peace to exercise the powers with which they were vested to give aid on discharge through these societies, and empowered them to contribute to certified societies a sum not exceeding £2:0:0 for each discharged prisoner given assistance by them. This Act also empowered the justices to provide prisoners with the means of returning to their homes.

Since then, statutory changes have been made affecting the societies and the system of financial assistance to be given to them. Efforts have also been made to bring about closer co-operation between the various societies and to centralize their work. Finally, about 1920, a new central society was incorporated, known as the Central Discharged Prisoners' Aid Society. Its objects were set forth as follows:

- “1. To promote co-operation among Discharged Prisoners' Aid Societies.

2. To encourage the maintenance of a Discharged Prisoners' Aid Society in connection with every prison in England and Wales.
3. To discuss subjects of interest to Discharged Prisoners' Aid Societies.
4. To provide a centre of information as to the best means of assisting youthful and other offenders.
5. To concert means for the reclamation and after-care of discharged prisoners.
6. To deal with 'difficult' cases submitted to it by any of its constituent Societies.
7. To educate the public with regard to the value and importance of the work of Discharged Prisoners' Aid Societies in general.
8. To assist the local Discharged Prisoners' Aid Societies by making them grants from their funds, by giving advice and by rendering such assistance as may be asked for."

The extent of the financial assistance given to the societies by the Government has varied from time to time, but, since 1931, a flat rate of two shillings per head for all convicted prisoners has been made by the Government. This grant was made subject to the provision that each society should secure contributions locally to the extent of one-quarter of the government grant. In 1936, subscriptions and donations to the local societies amounted to over £25,000. Government assistance is provided with the following intention:

"Here are contained two important assertions of principle on which has been based the action of the Government since this date.

1. That it is the duty of the Government to make a charitable donation in aid of discharged prisoners in addition to the gratuities under the stage system, which are an affair of prison discipline.
2. That the sum should be regulated by the amount of private subscription, provided that a maximum calculated on the total number of discharges is not exceeded."¹

The state thus enters into partnership with associations of charitable and benevolent persons duly certified under the Act in order to secure a double object:

- (a) the state object, that steps shall be taken at least to lessen the chances of a man's relapse into crime; and
- (b) the private and charitable object of relieving misfortune and distress.

Unofficial Prison Visitors

Another phase of prison work that is carried on in Great Britain, which has contributed greatly to the rehabilitation of prisoners, is the system of "Unofficial Prison Visitors." These must be definitely

¹ The English Prison System, Ruggles-Brise—Lond., 1921.

distinguished from the official Board of Visitors referred to in chapter XXX of this report. A brief description of this system, its aims, and procedure, is given by a former assistant commissioner and secretary of the English Prison Commission, as follows:

"Unless he is attending an educational class or lecture, a prisoner is normally locked up in his cell from sometime between 4 p.m. and 5 p.m. till next morning—a bleak and lonely period for many, since not all are capable of concentrated reading, and the cell task is monotonous and easily disposed of by the experienced prisoner. It is at this time that a visit from someone from the outside world, quite unconnected with the prison staff—someone to talk about ordinary matters of everyday interest, to take an interest in his family, perhaps to help him to understand how he has gone wrong and to discuss the future—may not only prevent the prisoner from solitary brooding over real or fancied grievances, but may actively direct his thoughts in profitable directions, give him fresh hopes and interests, and assist to restore his self-respect by letting him see that someone thinks it worth while to come and talk to him and take an interest in his affairs.

To this end the Commissioners in 1922 decided to extend to men the system of 'unofficial visitors' which had for many years been so successful at certain women's prisons, and it would appear from their reports that their hopes have been realized with notable success. Notwithstanding the exacting nature of this voluntary service, and the difficulty of finding suitable persons who are both willing and able to spare the time for it, there were in 1931 557 men and eighty-five women acting as Prison Visitors. The work of the men has been consolidated by the formation of a National Association of Prison Visitors, an active and valuable body which not only serves to give the Visitors a corporate spirit, but by arranging annual conferences provides for the discussion of their common problems among themselves and with the Commissioners, and serves as the channel through which the views of Visitors about their work may reach the Commissioners.

Meanwhile, under the guidance of the National Association of Visitors to Women Prisoners, the work among women has been extended to all women's prisons, and the experiment has been successfully inaugurated of inviting women visitors to see young male prisoners under 21 years of age. The special work of the woman visitors at the Boys' Prison at Wormwood Scrubs is described later (see also Appendix H).

Visitors are invited to serve by the Commissioners on the recommendation of the Governor and Chaplain, who first satisfy themselves as to their suitability by local inquiries, by consultation with the Visiting Committee, and finally by a short trial on probation. The period for which the Visitor is invited to serve is 12 months; all the invitations are reviewed annually, and are not renewed to

those who have shown themselves unsuitable for the work or unreliable in their attendance.

Not every prisoner has a Visitor allotted to him; the Reception Board considers in each case whether a Visitor would be helpful, and the cases are so allotted that each is visited, about once a week. The Visitor has a cell-key, and sees his man alone and in his own way, but he must not visit anyone not allotted to him by the Governor.”¹

On appointment, each visitor is furnished with a printed memorandum containing a very complete set of notes and rules prepared by the Prison Commissioners, which is intended as a guide to be followed in the performance of his duties. These visitors come from every walk of life, and their choice is not governed by any prescribed rule or standard. As John A. F. Watson, the secretary of the National Association in 1935, stated in an address:

“The men who are wanted as prison visitors need not be either criminologists, penologists, pathologists or psychologists—in fact no kind of ‘ologist’ at all nor must they be sentimentalists or suffer from morbid curiosity—but on the contrary just human minded Englishmen, not too young and not too old, hardheaded but not hardhearted, broadminded, tolerant and sympathetic, and possessing more than a grain of humour: above all, energetic, active and in intimate contact with modern conditions and modern problems.”

It is obvious that such visits will have a very wholesome and encouraging effect upon the prisoners. The prison officials, whether wardens, chaplains, or others, are too often regarded by the inmates merely as paid prison officials and, as such, are neither trusted nor regarded as friends. On the other hand, the prisoner realizes that prison visitors are not connected with the management of the prison, but that they come to see him in an unofficial capacity and in a friendly spirit to discuss his problems and to help him solve them. The visitor is able to get in touch with the prisoner’s wife, mother, or other relatives and dependents, whose welfare is so often one of the prisoner’s main sources of worry, and keep him advised of the health and welfare of each member. The information gathered from the prisoners during these visits is of great value when provision must be made for them on discharge, particularly as many such visitors are also members of a prisoners’ aid society.

While in England, your Commissioners had the opportunity of observing several of these visitors at their work and were very much impressed with the manner in which they conducted it.

Your Commissioners have reviewed the work being done by prisoners’ welfare associations and other such organizations in Canada, they have studied the methods of operation in Great Britain, and have discussed the problem of after-care with those who are foremost in this work, and they are now firmly convinced that a system based on that now in effect

¹ Fox—*The Modern English Prison*, Lond., 1934.

in England, if developed along much the same lines in Canadian penitentiaries, would achieve similarly successful results. It is not intended here to prescribe in detail how this should be done. The following is suggested merely as an outline:

1. A central authority, under the direction of the Prison Commission, patterned along the lines of the Central Association for the Aid of Discharged Convicts, should be established to provide for the rehabilitation and after-care of prisoners released from our federal penitentiaries. Prisoners' aid societies now in existence could be utilized to serve at the different penitentiaries, and, if necessary, other such organizations could be created in order to embrace the entire field. Such societies should be given financial assistance, but in such a way as to encourage private contributions. Associate voluntary workers, who are so important in this scheme, could be recruited from the large army of social workers scattered throughout Canada, including members of the various churches, social service clubs, and other similar organizations, who, when the importance of this task is impressed upon them, will no doubt evince the same enthusiasm to serve as has been displayed in Great Britain.

2. The same prisoners' aid societies could be utilized to look after prisoners discharged from provincial institutions so that there would be no duplication or overlapping of such services, but it would be necessary to establish close co-operation and reciprocal arrangements between the provincial and federal authorities if the work is to be accomplished in the most efficient and economic manner.

3. Certain experiments patterned after the English system of voluntary visitors should be undertaken under strict supervision in certain selected Canadian institutions.

The success or failure of any system of rehabilitation or after-care for discharged prisoners depends in the final analysis upon the attitude of the public. Granted the closest co-operation between the state, the prison authorities, prisoners' aid societies, and volunteer workers, the system can accomplish little unless all citizens can be brought to realize their obligation to assist the ex-prisoner as willingly and readily as they would any other fellow citizen in distress.

Your Commissioners recognize the fact that, when work is as scarce as it is under present conditions, it may seem unfair to many that employers of labour should be asked to give work to ex-prisoners when so many innocent people require it. This argument is not new, and there will always be those who will advance it. A discharged prisoner has paid his debt to society when he is discharged from custody. It is the duty of society to assist him and to help raise him to the level on which honest men compete for employment. It is a grave ethical mistake to continue the punishment of one who has already been sufficiently punished, and it is a grave economic mistake to condemn an ex-prisoner to unemployment and thereby drive him into recidivism which will involve his con-

tinued support at public expense. The case is well put in the following remarks of the late Roy Calvert of the National Association of Prison Visitors:

“Objection is sometimes made to giving help to an ex-prisoner on the ground that there are many honest men who are equally needy and more deserving. This dilemma is as old as the parable of the Prodigal Son. But the ex-prisoner is not necessarily worse than a man who has not been in prison, and it is in the interests of the State to save him from being forced into a life of crime. It is not always possible to be logical in such matters and reasonable help to an ex-prisoner is a common sense compromise. It is a false economy to withhold necessary funds for after-care work when a few pounds spent on an offender at the beginning of his criminal career may save him from becoming an habitual criminal at a cost of many hundreds of pounds to the State.”

Finally, your Commissioners suggest that, if the various Governments and municipal councils throughout Canada would adopt the broad general principle that a man's conviction should not automatically act as a bar to his ever obtaining employment in the public service, they would set an example to all employers of labour. Knowledge of an applicant's conviction must necessarily be taken into account, but it should not alone decide the issue against him.

One of the largest industrial concerns in the United States, which employs thousands of men, does not discriminate against a man merely because he has been in prison.

Information was given to your Commission that, although no regulation of the Civil Service Commission expressly bars ex-prisoners from obtaining employment in the federal Civil Service, for many years it has been the practice that no one who had been convicted would be considered eligible for appointment. In recent years this “unwritten law” has been less rigidly enforced, and there has been an occasional instance where such a person who has shown that he had reformed and lived an honest life since his release has been given a position in the government service. Your Commissioners approve this principle, and suggest that the question, “Have you ever been charged with a criminal offence?” should be followed by a note, “The fact that you have been convicted of a criminal offence will not in itself bar you from appointment to a position in the Civil Service.”

PART III

CHAPTER XXII

DORCHESTER PENITENTIARY

Buildings and Grounds

The penitentiary buildings are of the old style and the cell blocks, which contain barrier type cells, are out of date. Your Commission is of the opinion that the closed door, or outside cell, is vastly superior to the barrier, or inside cell. This is quite generally conceded and, while transformation of the barrier into closed door cells would be very costly, there is nothing to prevent the latter type being adopted in future buildings. This would have the advantage of eliminating the conversation period, which, as arranged at present, is considered objectionable. Some prisoners prefer privacy in which they can read, and would rather have conversation permitted when they are walking in the yard, or at other times. These observations have a general application and are not confined solely to Dorchester Penitentiary. In order to avoid the expensive transformation of the present barrier cells into closed door cells, alterations might be made that would provide shower baths on each landing and enclose the corridors to permit deserving prisoners to associate during the evenings and on Sundays and holidays.

Your Commissioners found that some of the cells are very damp, a situation which could be remedied by better ventilation. The cleanliness of the cells is also open to criticism. This might be corrected by making each prisoner responsible for cleaning his own cell. The punishment cells differ little from the others except that the only furniture in the former consists of a wooden bed.

A new cell block, which is called "Building B7," and which was recommended on December 22, 1932, is now under construction. It is patterned upon the temporary cell block at St. Vincent de Paul Penitentiary, and consists of a two-story two-tiered cell wing with inside cubicles and open barriers facing outside corridors. Only the foundation had been completed when work was stopped by authority of a memorandum of October 19, 1936, issued by the Superintendent, who had decided upon outside cells instead of inside cubicles in order to provide for a more suitable segregation of the prisoners. The revised design provides for 232 cells of the closed type with two shower baths and one cleaner's cupboard on each floor. The foundations and the first floor of this new cell block are now finished. Your Commission recommends that construction of the building should be hastened to completion.

Since August, 1933, there have been over one hundred communications between the penitentiary and the Branch regarding details of construction and arrangement, covering such subjects as beds, floors, ceilings,

requisitions, control cages, cooking, seats in cubicles, seepage in the floor, stairways, toilets, costs of construction, and control of staff. This enormous correspondence and the consequent delay in construction are attributable to the failure of the Branch to supply the warden and the chief trade instructor with detailed specifications and costs of materials at the inception of the project. The building of the change room has been held up for six years because no details have been furnished to the penitentiary regarding shower bath partitions. Inspectors Dawson and Sauvant reported under date of May 14, 1937 that the transfer from the present change room to the new one is being held up pending decisions on:

- (1) Installation of ventilation equipment;
- (2) Changes to the dryer;
- (3) Placing of control cages;
- (4) Arrangement of bins;
- (5) Central shaft of individual dryers from machines.

The final recommendations of the inspectors are that a plan should immediately be put into force at the central office providing that, so far as is possible, no project should be authorized until detailed specifications of all parts of the buildings, complete lists of materials, and details of machinery and equipment, are prepared, and further, that, when general plans are sent to the penitentiaries, details of the interior of buildings and of the machines and equipment should accompany them. With the reservation that, where it would be difficult to anticipate all requirements minute details of equipment might possibly be omitted, your Commissioners entirely agree with these recommendations.

The new firehouse and bell house and a new barn and an implement shed are being completed, and some work is also being done toward excavating for, and laying, a new sewer. The tower platforms on which the guards are stationed could be made much more suitable if they were enclosed to the height of about three feet. This would protect the guards from the strong winds that are common in this locality, and would also protect the floor from snow in winter time.

Nine brick houses, including both single and double residence, are located on the penitentiary property and are rented to officials. The foundation of two more brick dwellings were constructed seven or eight years ago, but, since then, nothing further has been done to complete them. The houses already built are well constructed and maintained. They have garages attached and are heated by hot water furnaces. The basements are well constructed and spacious. The main floors have an enclosed front verandah, large living room, dining room, and kitchen, and, upstairs, there are four bedrooms. The single brick dwellings rent for \$15 a month, and the double ones for \$12.50 a month for each half.

There are ten wooden houses, which were erected about fifty years ago. They have become dilapidated, and are badly in need of painting and other repairs. Each contains a basement and three stories heated by stoves. These wooden buildings constitute a serious fire hazard; they are

built so closely together that, should a fire break out, it would be almost impossible to confine it or to permit the occupants to escape without injury.

The warden believes that additional brick dwellings should be constructed, but at a considerably lower cost. He is of the opinion that considerable expense could be saved by heating them with hot air instead of hot water.

The greenhouses for plants and vegetables are small and, in order to function efficiently, should be enlarged to a considerable extent.

The water supply, which is dependent on springs that fail during dry seasons, is inadequate and unreliable. The water in the upper reservoir is very badly discoloured and scarcely suitable for drinking purposes. In the opinion of your Commissioners, expert opinion should be consulted as soon as possible with a view to rectifying this situation.

The penitentiary property in front of the buildings slopes down to the main highway. A suggestion was made by the Superintendent that a fence should be erected along the boundary of the penitentiary lands adjacent to the highway. Your Commissioners believe that this expense is not necessary and that the same result could be achieved by planting a hedge, the shrubs for which could be obtained without extra expense from the land owned by the penitentiary.

In the opinion of your Commissioners, the concrete steps leading down toward the highway do not need to be extended any farther. Instead, the land from the bottom of these stairs could be graded down to the highway and steps erected from the highway opposite the wooden buildings, so that the officers and guards could use them to go to and from the penitentiary without having to detour along the highway for a considerable distance before turning into the penitentiary grounds.

At the time of the visit of the Commission, the main highway that runs along the front of the penitentiary grounds was being constructed. As this road will now be paved, your Commissioners suggest that it would be advisable to pave the road running from the penitentiary's main entrance to the highway.

General Discipline

We found discipline in the penitentiary to be fair. With two or three exceptions, the officers appeared neat and alert, and apparently co-operated with, and had confidence in, the warden. The list of prison offences and punishments is not abnormally large. Corporal punishment is very seldom resorted to, and then only in extreme cases and as a last resort. It was only applied twice in 1936 and once in 1935.

Warden

The warden of Dorchester Penitentiary impressed your Commissioners as being vigilant, energetic, and humane. While a strict disciplinarian, he does not favour those militaristic methods that are so out of place in a penitentiary.

Training of officers is under the personal supervision of the warden with the result that, according to the Superintendent's letter of March, 1936, the officers of Dorchester Penitentiary made a better standing under examination than those of any other penitentiary.

After the present warden had been for some time in charge of this penitentiary, ex-Superintendent Hughes wrote: "A new era of efficient, humane administration and business-like management dawned in Dorchester Penitentiary with the advent of Mr. Goad's assuming control." The warden made many valuable and constructive suggestions to your Commission. But for the opposition of the Superintendent, many of his suggestions, which would have been of benefit to the administration, might already have been put into effect.

Deputy Warden

The deputy warden is of the old school and does not believe in reformative treatment, but rather that penitentiaries exist only for punishment. He suggested to us that the regulations should be made more severe because they now offered prisoners inducements to return to the penitentiary. Being asked whether there was any prisoner who was not anxious to leave the penitentiary, he could not name one, and, being asked if he knew of any prisoner who was glad to return to the institution, he cited one. The deputy warden does not assimilate, or agree with, new penological ideas. Although he was given ample notice that your Commissioners were anxious to obtain his views on penitentiary matters, he failed to prepare himself or to devote thought to the matter.

Industries

There are no real industries in this penitentiary and trades are not taught. There are carpenter, tailor, shoe, blacksmith, machine, and tin-smith shops, but no work is provided in these shops such as would enable a prisoner to learn a trade to fit him for employment on discharge. The shops are used only to provide the necessary supplies for the requirements of the penitentiary, and trade instructors, whether they are capable or not to teach the trade, either have no time to do it or no interest in doing so. However, it must be borne in mind that they are acting also as custodial officers. In addition to shop employment, prisoners work in the dome and wings, kitchen, laundry, stone shed, yard, farm, stables, quarry, root cellar, ornamental grounds, power house, piggery, and library. Out of a population of 388, there are only ninety-three inmates working in the shops. As in other penitentiaries, inmates are not allowed to use material, even waste material, for experimental purposes. This is probably one of the reasons why no trade is taught as it should be. Circular 217, of December 5, 1933, forbade the expenditure of government material without the authority of the Branch.

Farm

Approximately 533 acres of farm land are under cultivation, 146 acres of which are devoted to growing oats, thirty-one to potatoes, nine

acres to turnips, and thirteen acres to other vegetables. Two acres are used for green feed for cattle, and the balance of the cultivated land is used for growing hay. There are also 626 acres, mainly composed of pasture, woods, and waste land, due largely to the fact that the whole frontage of the penitentiary property is situated in a marsh district, which is often greatly damaged by the high tides. The farm instructor was of the opinion that the only way in which much of this waste acreage could be utilized would be in the production of beef, using the marsh lands in rotation for hay, oats, and pasture, and the uplands in rotation for different root and cereal crops, and for pasture. A herd of 375 cattle would have to be maintained in order to raise beef on an economical basis. The recent price of beef might not appear to justify the expenditure but, if the price of beef should increase, the plan should receive full consideration. In view of the absence of fresh water on the marsh land, and its shortage on the uplands, the main difficulty in putting such a scheme into effect would be in connection with watering the animals. Your Commissioners, therefore, suggest that, before entering upon such an undertaking, the report of an expert should be obtained.

Recreation

In addition to the exercise of physical training, permitted by regulations 46 and 47, the prisoners are allowed to play volley ball and pitch horseshoes. Up to 1933, it was the practice on each statutory holiday to hold concerts in the school room during the afternoon. These consisted of singing, dancing, and instrumental playing by the prisoners, and motion pictures provided by the institution. Since that time, however, no concerts have been held, because regulation 713 cannot be complied with at this institution without causing expense to the public. Free transportation by penitentiary vehicles is out of the question during the winter months, and even during the summer months with present transportation facilities. The warden would like to be able to provide concerts for the prisoners because these entertainments form a diversion from which much benefit is to be derived. The warden is also of the opinion that table games, such as checkers, chess, and dominoes, should be permitted. There was no radio at Dorchester when the Commission sat at that penitentiary, but radio programs had been provided at Christmas time by the Salvation Army. Receiving sets were set up in each corridor of the wings and in the hospital. The radio equipment for this was supplied free of cost by the T. Eaton Company, of Moncton. Ninety per cent of the prisoners have contributed voluntarily six cents per month from their "peculium" in order to purchase a radio receiving set, which has now been installed. Our views as to the installation of radio in the penitentiaries in this manner are fully set out in chapter VIII of this report.

News bulletins are mimeographed every week and copies are issued to all prisoners.

Young Offenders

The young prisoners are now housed in one cell wing segregated from the adult prisoners. They are employed at out-of-door work on the farm, on the construction of the new barn, on the ornamental grounds, bricklaying, excavating new sewers, painting, and building. They attend school two mornings of each week, but they receive no industrial training whatsoever. Contrary to the general public belief, the young prisoners have not the least opportunity to learn a trade. According to the present policy of the Branch they are not even allowed in the shops.

Kitchen and Steward

The cooking in this penitentiary was unsatisfactory, due, we believe, to lack of supervision by an experienced cook. The steward has died since the Commission visited Dorchester. Your Commissioners trust that only a man of ample experience will be appointed to replace him. The importance of this was fully realized by the warden.

There is no range in the kitchen and all food is cooked in steamers. Although some meat is subsequently placed in the bakery oven, the previous steaming takes the value from what was first-class meat when it entered the penitentiary. The same thing applies to potatoes, which become soggy and wet through steaming. At least two large ranges should be installed if the food is to be properly prepared. The kitchen, particularly the floors, were not kept clean, and disorder was prevalent. No dishwashing machine has been provided and all dishes are washed by hand without sterilization. In the opinion of your Commissioners, this situation should be rectified by the installation of suitable equipment.

Hospital.

Your Commissioners found the hospital in very good condition, clean, and modern. At the present time, part of the first floor is taken up by the key room with its noises and traffic, but, when this extra space becomes available, the accommodation will be quite adequate. The hospital occupies three floors. On the first floor, the medical and dental clinics, the pharmacy, and the doctor's office are located. The second floor is occupied by cells for the ordinary patients and also for those suffering from venereal disease. On the third floor, in addition to cells for the ordinary patients, there are cells for those suffering from tuberculosis, together with a small solarium for the latter. The hospital cells are clean, roomy, and much larger than those in the regular cell blocks.

Doctor and Medical Services

The medical service is capably handled by the medical officer in charge, who is an ex-army officer and has specially prepared himself for the position he now occupies. He is still pursuing refresher courses during his holidays, and appears to be an efficient and competent official. Under his guidance, the male nurses are being trained and soon will be up to a proper standard. When the alterations have been made to the hospital and the key room removed, it will be possible to segregate the

mental cases. This will be an improvement, in view of the fact that, at the time of our visit, the penitentiary contained sixty-nine mental cases, of which thirty-three were abnormals and thirty-six mental defectives. Of the first group, seven are considered by the doctor to be insane.

Your Commissioners found that, in this penitentiary as in others, malingering is quite common. The doctor stated that about fifty per cent of those who come to the hospital are malingerers, but, after inquiry, we decided that quite possibly this may be an exaggeration.

Chapel

There is no separate chapel for those of the Roman Catholic faith. At the present time, services are held in the Protestant chapel. This common chapel is not adequately furnished. The pews are so close together that there is no place to install kneeling stools, and, as a result, the inmates are compelled to kneel on the bare floors.

A few years ago it was decided to build a separate Roman Catholic chapel. Plans were made and authorized, and construction was started, but, due to the intervention of the Superintendent, it was never completed. Your Commissioners are of the opinion that construction of this chapel should be recommenced and brought to completion as soon as possible.

Chaplains and Religious Services

The Roman Catholic chaplain, who has been acting as such for ten years, impressed the Commission as being a man eminently fitted for his position. Active, interested in his work, sympathetic, humane, imbued with a missionary spirit, he has the confidence of all prisoners even when not of his faith. He holds numerous interviews with the inmates and devotes his entire time to his duties in the penitentiary. While your Commissioners were at Dorchester Penitentiary they saw him frequently in the mornings. He informed us that he would like to have more interviews with the prisoners and greater facilities for interviewing them in private. Under the present regulations he is only permitted to interview the inmates, either during an hour at noon, or in the corridor outside of their cells at night. He stated that he does not take full opportunity of the night interviews because, with barrier cells, such interviews, not having the necessary privacy, are practically useless. He has no office in which to interview the prisoners and is forced to depend upon the chapel, which is entirely inadequate for the purpose.

Unfortunately, your Commissioners were not as favourably impressed by the Protestant chaplain. He did not appear to have the missionary zeal, nor did he possess the confidence of the prisoners, and your Commissioners do not consider him a suitable officer for chaplain service.

Education: School, Library, Teacher, and Librarian

The school and library are located in the same room. The school is actually conducted in one large room called the assembly hall, which is not suited for class work, and its walls are badly in need of renovation.

A large proportion of the population is illiterate. According to circular letter 120/23, school is being conducted during the forenoon of each day from Monday to Friday inclusive, yet during these periods the several shops of the penitentiary remain in operation. Classes are not graded, but merely formed by groups, with one monitor for each group.

The school teacher does not teach any one group but depends entirely upon his monitors to do this. Your Commissioners do not approve of this course. The school teacher, himself, should teach a class.

No proper record is kept of the progress made by each prisoner attending school. Even the date on which he is admitted is not recorded. Discipline in the school is non-existent; prisoners talk and laugh freely among themselves; some of them chew tobacco, and neither the school teacher nor the guards on duty appear to take any notice of these infractions of the regulations. As a result the school is unsatisfactory. The teacher does not appear to be interested in his work and, although a well-educated man, he appears to attach more importance to theory than to practice. He is nervous, lacks initiative, and it is obvious that he does not understand how to maintain discipline. Moreover, he does not comply with regulation 397, which requires him to give cell instructions to the inmates, nor was he able to supply the Commission with any satisfactory explanation why he had not done so.

The school teacher also performs the duties of librarian. He is assisted in these duties by two prisoners in the morning and four inmate monitors in the afternoons. These latter are engaged in school work in the forenoon. The system of distributing the books is quite adequate but, although there are 2,000 volumes, only 1,500 of these are in circulation because of lack of space for them on the shelves. The rules permit each prisoner to draw out six volumes of fiction or six magazines each week in addition to any educational book he may ask for. The librarian complains that he is not given the necessary assistance and that at times he is compelled to accept the services of any inmate sent to him, even when the inmate is unfitted for library work. Although he is a member of the classification board and the library board, he admits that he has never complained about this situation, or even discussed the matter with the board.

The censorship of magazines is done by the librarian and the two chaplains. In the opinion of your Commissioners it is too stringent.

The censor officer who has charge of censoring letters does not understand the French language sufficiently to deal with letters written in that language and, when asked by the Commission to translate three lines of very simple French, he failed to do so. Your Commissioners are of the opinion that, in view of the number of French prisoners in this penitentiary, a censor understanding the French language should be appointed, either to replace the present one, or to assist him in his work.

CHAPTER XXIII

ST. VINCENT DE PAUL PENITENTIARY

Buildings and Grounds

The "Laval Buildings," while connected with St. Vincent de Paul Penitentiary, form a separate entity, and will be dealt with separately in this chapter.

The general comments, which your Commissioners have made regarding the buildings at Dorchester Penitentiary, apply equally to those at St. Vincent de Paul. Both are old, and the cell blocks are of the barrier type, which are no longer considered to be appropriate.

There are between 300 and 350 cells that are not provided with the necessary sanitary equipment and in which buckets are used. Your Commissioners are of the opinion that these cells should be condemned without qualification and that in future no prisoners should be confined in them. The abolition of these cells would involve, either the construction of new cell blocks, or the reduction of the population. The lights in the cells are insufficient and many cases of failing sight are attributed to this.

Otherwise, the buildings are kept in a good state of repair, and substantial improvements have been made to the administration building, the hospital in the old west wing, the north-west gate and stores, the keeper's hall, the powder magazine and cap house, the transformer room, the boiler house, the storage buildings, the main dome, the north wing cell block, the north-east cell block, and the old east wing cell block. The old Roman Catholic chapel wing has been altered to provide larger quarters for the library and school. A new two-story building has been built as a south wing extension, which provides space for the kitchen, the steward's office, and the new Roman Catholic chapel.

A new temporary cell block, now occupied by the young prisoners, was completed in 1930. It has 144 additional cells all equipped with toilets, sinks, and other hygienic facilities. Another new temporary cell block has been built with three rows providing 204 additional cells. The old building, which contained the kitchen, library, and school, has now been converted into a shoe and tailor shop, and the old wood shed into the present mail bag shop, with a tinsmith shop located below. Alterations have been made to the machine and blacksmith shops, the change room, and laundry. The shower baths have been removed from the first floor of the main shop building to the south workshop buildings. A new fire-proof garage and a new fire hall have been built. The old piggery has been remodelled, and a new piggery built. A duct 470 feet long has been constructed twenty feet below grade level between the main dome and the north-east boundary wall, and concrete ducts have been constructed from the boiler house to the new piggery and from the hospital to the main duct system. A heating pipe duct 370 feet long has been constructed from the south work-shops towards the new tank, as well as an

eight-inch intake pipe from the river-front to the pump-house, and a subway under the C.P.R. right of way. A parking space has been arranged, a protective wire fence, a new railway siding, a narrow gauge railway, a new macadam road, a segregation park, and a filter house extension have been built. A safety cage for guards has been installed in each trade shop. Inside and outside cages have also been erected, some with concrete bases, in the stone shed, and blacksmith shop, the machine shop, the mail bag shop, the change room, the bathroom, the tailor shop, the shoe shop, the carpenter shop, the Protestant chapel, the new kitchen, the library and school, and the new Roman Catholic chapel.

General Discipline

The principal characteristics of penitentiary discipline described in another chapter are to be found at St. Vincent de Paul Penitentiary. Members of the staff are neat in appearance and smart in bearing. Although there are a number of very good officers at this institution, their personalities have been stifled by the militaristic discipline in force. None has the temerity to make suggestions or to display initiative. A system of fear is in existence, applicable alike to staff and inmates.

As a maximum security escape-proof institution and a place of punishment, St. Vincent de Paul Penitentiary may be considered a success but, possibly due to the fact that a great number of professional criminals and unmanageable persistent offenders are confined within its walls, necessitating a very strict discipline, no real efforts at reformation or rehabilitation appear to have been made. A number of officers who are inclined to work to this end, not only lack encouragement in their attempts to help well-inclined prisoners toward rehabilitation, but are actually discouraged to the extent of causing them to fear that such endeavours would involve them in disciplinary measures.

Penitentiary regulation 139 provides that no prisoner shall speak to an officer except from necessity in the course of duty or in exchanging proper salutations when meeting or passing. Your Commissioners found, however, that a routine order (583) had been issued to officers by the warden making this regulation even more repressive. The order reads as follows:

“Recent incidents have revealed that certain officers take upon themselves to hold conversations with convicts. We wish to remind you all that convicts should not be talked to except from necessity in the course of duty. Those having contracted this bad habit will have to discontinue this practice immediately as anyone breaking a rule in this connection shall be liable to disciplinary sanction.”

The gist of the situation is that, while co-operation exists at St. Vincent de Paul, it exists only in regard to enforcing discipline and punishment.

Punishments for prison offences have been extremely severe and reports for infractions of the rules are numerous. Admonitions are seldom given by the officers because they feel that they would be reprimanded if it were known that they had given a warning instead of

making a report. The views of your Commissioners on the trial and punishment of prison offences are fully set forth in chapter V of this report.

In 1930-31, 1,961 offences were brought before the prison court at St. Vincent de Paul. All but seventeen of the inmates were found guilty. In 1931-32, 2,753 accusations were brought before the court and only thirteen of the inmates were acquitted. In 1932-33, out of 2,267 inmates charged with offences, only three were acquitted. In 1933-34, out of 1,615, only one was acquitted. In 1934-35, 1,967 offences were charged and in 1935-36, 1,537 offences were charged without a single acquittal in either year. From April 1 to December 31, 1936, out of 1,195 accusations made before the court, only three were dismissed.

The whole subject of corporal punishment has been fully dealt with in chapter V of this report. Corporal punishment used to be very frequently awarded in this penitentiary when the warden was empowered to inflict it without the authority of the Penitentiary Branch, and it is still awarded too frequently. The practice at this penitentiary of "paddling" inmates in the presence of the entire staff, who are paraded and have to be present throughout the punishment, is strongly to be condemned. Several officers have expressed their opposition to this practice and your Commissioners are unable to find any justification for it. This practice, which is not far removed from sadism, intensifies the prisoner's desire for revenge, and this may still further be quickened when, as is unfortunately sometimes the case, officers who are cruel or brutal enjoy the spectacle and afterwards deride an inmate who has been unable to maintain stoicism under punishment.

No adequate classification is in effect. The reports of the members of the classification board are most perfunctory; no reclassification, such as is demanded by regulation 702, is made, and no minutes of the board's proceedings are kept.

Although, according to regulation 87, inmates are permitted to take courses from correspondence schools, this privilege is denied them at St. Vincent de Paul because the school teacher, with the approval of the warden, is opposed to the practice.

St. Vincent de Paul Penitentiary has the dubious distinction of being the only penitentiary in Canada, and, so far as your Commissioners are aware in the entire world, where cages have been installed in the chapels and are occupied by armed guards during service.

Warden

Lieutenant-Colonel P. A. Piuze was the warden at St. Vincent de Paul Penitentiary at the time of the visit of your Commissioners to that institution. He had been warden for over ten years but has since resigned from the penitentiary service.

Before proceeding to comment upon Warden Piuze's regime, it is only fair to state that the majority of the inmates of this penitentiary are quite different in type from those of Dorchester, British Columbia, Manitoba, and Saskatchewan Penitentiaries in Canada or most of the

British penal institutions, and more of the same type as those at Kingston Penitentiary or some of the large institutions of the United States of America. Being close to Montreal, the metropolis of Canada, and to the border of the United States of America, the population of St. Vincent de Paul is necessarily cosmopolitan and it includes a large number of incorrigible and habitual offenders, many of whom are desperate criminals of the "hold up" or "gunmen" type. Many of these men are difficult to control and constantly incite other prisoners to commit breaches of discipline. To illustrate the type of criminals to be dealt with in this institution, in 1936 and 1937, out of a population of 943, 120 inmates had been convicted of robbery while armed, seventeen convicted of conspiracy to rob while armed, four convicted of robbery with violence, seventeen convicted of murder, ten convicted of attempted murder, seven convicted of attempted robbery while armed, four convicted of bank robbery, three convicted of breaking and entering and discharging firearms with intent, one convicted of discharging a firearm with intent, thirty-four convicted of manslaughter, eleven convicted of rape, and about 100 convicted of other sex offences.

Without proper facilities for segregation, and with regulations and rules of conduct which apply indiscriminately to all inmates, whether vicious criminals and recidivists, or accidental and first offenders,—a policy which is admitted by the Superintendent in his letter of January 17, 1936, to be lacking in good common sense—it necessarily follows that discipline will be suited to the regiminal needs of the worst type of unmanageable inmates, and that such discipline will be far too rigid and severe for the more amenable and less anti-social prisoners and perhaps even destructive of their chances of reformation. In his evidence depicting this difficult situation, Lieutenant-Colonel Piuze, himself, stated that, if he could get rid of some forty or fifty inmates who were incorrigibles and disturbers of discipline, and if the remainder of the population were to be classified, the institution could be managed without any difficulty under a less rigid and severe discipline.

Probably because of this lack of facilities for proper classification and segregation and because of the indiscriminate nature of the regulations and rules of conduct, Lieutenant-Colonel Piuze appeared to be imbued with the sincere and honest conviction that, in order to insure discipline, obedience to the rules, and security in his institution, it was necessary for him to create an atmosphere of perpetual fear, applicable, not only to the inmates, but also to the officers. As a result of this mistaken conception of convict management, there has been at St. Vincent de Paul a more severe and rigid discipline, accompanied by more drastic punishments, than your Commissioners have found in any other institution they have visited in Canada.

Lieutenant-Colonel Piuze frankly stated, and your Commissioners were convinced that it was his sincere and conscientious belief, that under the existing conditions, kindness was but weakness. He appeared to have little faith in the possibility of reforming or rehabilitating any

but a very few of the inmates of the penitentiary. By his attitude, which he rigidly imposed upon his staff, and through a peculiar but sincere misconception of the duties of his position, he succeeded, however unwillingly, in developing amongst the prisoners under his charge such a sentiment of hate, and such a desire for revenge against the authorities of the institution, that there seems little likelihood this attitude would cease upon their discharge from the institution, but rather that it would persist even more intensively after their release and result in further anti-social outbreaks.

Your Commissioners have no doubt that Lieutenant-Colonel Piuze was convinced that, if he deviated from the line of conduct he had adopted, he would conscientiously believe himself to be in error and culpably remiss in the performance of his duty. He suffered from a security and control complex and, in striving for control and security, he lost sight of the necessity for humanitarianism, without which reformation is impossible and wholehearted co-operation cannot be obtained.

Following the resignation of Lieutenant-Colonel Piuze, Inspector Louis Sauvant took charge of St. Vincent de Paul Penitentiary as acting warden.

Deputy Warden

The deputy warden of St. Vincent de Paul Penitentiary appears to be an efficient officer and, if a little initiative and authority were permitted him, it is probable that he would fulfil the requirements of his position in a very effective manner.

Industries

Industries in Canadian penitentiaries are dealt with in chapter IX of this report, and the comments made therein apply to St. Vincent de Paul.

There are carpenter, machine, blacksmith, tinsmith, tailor, shoe, bindery and printing, and mail bag shops, but very little work is provided in these shops that would enable an inmate to learn a trade such as would fit him for employment on discharge. With the exception of the mail bag, binding, and blacksmith shops, the only work done in them is to provide supplies for the requirements of the penitentiary.

Fifty-seven men are employed in the carpenter shop, forty-two inside and fifteen on various jobs outside; thirty-six in the machine shop, mostly selected from long-term prisoners; twenty-four in the blacksmith shop, principally in the manufacture of cell gates and barriers for Collin's Bay Penitentiary; eight in the tinsmith shop; fifty-three in the tailor shop; fifty-two in the shoe shop, which is very crowded; eleven in the bindery and printing shop, where binding is done for the Department of Justice library as well as for the penitentiary library. More instruction is given in the art of bookbinding in expensive leathers for the instructor's personal collection, however, than for the ordinary trade of bookbinding. There is plenty of work in the mail bag department.

Apart from those employed in the shops, thirty inmates work in the change room, forty-two in the steward's department, three in the stores department, and forty in the library.

On the whole, shop instructors consider themselves to be foremen rather than tutors, and take more interest in their custodial duties and in the manufacture of articles for the penitentiary service than in teaching the inmates a trade that would be of service to them on leaving the institution.

Farm

A special report on the farm is contained in appendix II to this report, and farm management and employment are dealt with in chapter IX.

With the exception of physical instruction, which is very limited, the inmates at St. Vincent de Paul have no outdoor recreation. The warden of the institution was of the opinion that such games as volley-ball, quoits, and hand-ball, or even soft-ball, could be allowed in the penitentiary if a proper classification existed to permit the removal of incorrigible and unmanageable inmates to a separate institution. He believed that, until then, and with the present population, it would not be safe to permit such games, even though most of them are played in other federal penal institutions.

Radio is only permitted at Christmas or on such other rare occasions. Some concerts have been given by outside artists, and these were very popular with the inmates. No games, such as checkers or chess, are allowed because, when prisoners are not at work or on parade, they are at all times confined in their cells. Hobbies in the cells, as a general rule, are not permitted, but some inmates are allowed to possess crayons and to use them for drawing purposes. It is true that the inmates have conversation periods in the cells in the mornings and after meals, but the tone in which these conversations are conducted creates such bedlam, and the subjects discussed in them are so vile, that, in the opinion of the warden, as well as of your Commissioners, such conversation periods should be abolished in favour of conversation in the yard when the inmates are out of doors.

Young Offenders

At present young offenders are segregated in the new cell block, No. 1. It was the opinion of the warden, which is concurred in by your Commissioners, that the problem of rehabilitating young offenders will never be solved until they are segregated in an entirely separate institution.

The young offenders have no opportunity to learn a trade because they are debarred from the shops. This is due to the policy that, where there is only one set of shops, they shall be used by the adult inmates and the young offenders shall not be permitted to have any contact with the older men for fear of the detrimental effect of such contact. They now have the use of a stone-cutting shop on the grounds of

the Laval Buildings, where they are learning the stone-cutting trade, but your Commissioners fear that this will not be very useful to them after they have been discharged. In addition to employment in this shop, young prisoners have been employed in pick and shovel construction work and labour on the ornamental grounds. Those who are not occupied in this manner are employed in cleaning the cell block.

At the time of the visit of your Commissioners, no education whatsoever was being given to young offenders in spite of the obvious necessity of having all of them given as much schooling as possible in order to fit them for normal life after discharge in the outside world. The reason given to your Commissioners for this lack of education was that the teacher had no time to teach young offenders. The warden claimed that he had asked the Penitentiary Branch to provide him with an assistant teacher for this work, but without result. Very fine school rooms are provided in the cell block occupied by young offenders, but they are not being used. Sixty per cent of these boys are practically illiterate, which indicates the necessity of providing educational facilities for these prisoners.

The officer in charge of the young offenders, although humane and willing, has not the training necessary for that particular work. He was taken from the shoe shop and assigned to his duties without any proper instructions or any explanation of what was required of him. It is difficult to imagine wherein his training in the shoe shop would fit him for this highly specialized work. The situation is further aggravated by the rigid discipline, previously referred to, which exists at St. Vincent de Paul. This officer, in common with all others there, did not find it advisable to make suggestions to the warden, believing that he would get along much better if he kept his own counsel.

Kitchen and Steward

Forty-two prisoners are employed in the kitchen and commissary department. Conditions there, particularly with regard to the kitchen, the scullery floor, and the store-room, are not satisfactory. Proper cleanliness is lacking and the store-room is too damp. When the washing machine in the main kitchen is in operation a dense cloud of vapour envelops the whole kitchen, leaving the wall and ceilings in a very moist condition and making it exceedingly difficult to keep the kitchen bright. At this penitentiary, the food, especially the meat, is of very good quality but it is poorly cooked, probably because boilers are used instead of ranges. The bakery, cold storage, and store-room are well kept and clean. No valid complaint can be made with regard to the food, which is far better than that in the provincial jails or in British and European institutions. Many people who are in full possession of their liberty would be delighted to secure as good food as is furnished to the inmates of this penitentiary. Such complaints as have been made are equally applicable to any institution, whether a good hotel, a college, or a boarding house, where the cooking, in spite of the excellent quality of the food, will eventually become monotonous.

Hospital

Although extensive improvements and repairs have been made to the hospital in the old west wing, it is still inadequate for the large population of St. Vincent de Paul. The hospital is very clean and well-kept. It consists of the doctor's office, the doctor's operating room, the dentist's room, and twenty-three cells, of which six are kept for observation cases and five for tubercular cases. There is also a sunroom for the latter.

The new sterilizing equipment is adequate but there is need for a new operating table and an X-ray instalment. A clerk who is not an inmate should be added to the staff to handle the correspondence at the hospital. At present, an inmate is doing this work and, as a result, the subjects of correspondence are known to everybody in the penitentiary. This correspondence relates to many subjects which should be kept confidential.

Doctor and Medical Services

The medical service of St. Vincent de Paul Penitentiary is in many respects unsatisfactory. Your Commissioners attended the examination of an inmate on reception, and found that the examination was neither thorough, nor conducted in a sanitary manner. The same criticism applies to subsequent examinations made in accordance with regulation 313. In fact all medical examinations appear to be conducted in a very superficial manner at this penitentiary and, unless an inmate complains of some specific trouble, no stethoscopic examination of the lungs is made, the blood pressure is not taken, and no analysis of the urine is made.

Your Commissioners found the doctor to be a very nervous and excitable type, and evasive in his answers when before the Commission. On a number of occasions he began by giving a negative answer but, when questioned further and confronted with discrepancies, he came to admit that he had been wrong in his first statement.

Many inmates complained that at daily sick parade the doctor failed to give them proper attention and that he refused to investigate their ailments. It would appear that the doctor regards all inmates convicted of certain crimes as being on the border-line of insanity, and when these men complain of physical disabilities he refuses to take their complaints seriously. It is unfortunate that the doctor makes this use of the crime sheet of each prisoner: he should diagnose and prescribe entirely on medical grounds.

Your Commissioners found that those suffering from tuberculosis are confined to their cells during the forenoons and only permitted about two hours in the sunroom during the afternoons. This appears to be detrimental to their recovery. Examinations of tubercular inmates, as in other cases, are superficial. It has been brought to the attention of your Commissioners that men suffering from this serious disease have been declared fit for work and sent to the stone-shed where the most exacting physical labour in the penitentiary takes place. Tubercular inmates

who are subjected to this treatment rapidly become worse, and, in some cases, it is equivalent to a sentence of death.

Your Commissioners found that equally careless and callous treatment given to inmates suffering from other diseases has had this very effect. For instance, two men complained to the doctor that they were suffering from pains in their right sides. They were reported by the doctor as malingerers who were making false complaints. Unfortunately their complaints were all too true and both men died of appendicitis.

As stated in the analysis of the medical service at Dorchester, there is no doubt a great deal of malingering in the penitentiaries, but it is also true that some doctors, in order to guard themselves against such malingering, have developed so strong a complex of suspicion that they regard nearly every inmate who comes before them as a malingerer. Your Commissioners are of the opinion that the present physician at St. Vincent de Paul has reached this state of mind.

The dentist at St. Vincent de Paul is a part-time employee. No serious complaints have been made regarding him, and his work appears to be satisfactory. Your Commissioners suggest that, in view of the size of the population at St. Vincent de Paul, it might be an improvement to have the dentist employed on a full-time, instead of a part time, basis.

It seems to your Commissioners that the present system of dental treatment entails too much correspondence and that the warden should be empowered to authorize much of the work that now has to be approved by the Branch. The following complicated procedure is at present necessary: after examining the inmate, the dentist fills in a chart showing the treatment recommended and the cause. The physician then completes a form, concurring in the dentist's recommendations. The warden forwards this chart and the physician's endorsement to the Branch, with a covering letter outlining the treatment which is believed necessary, the cause, etc. These documents are copied at Branch Headquarters and, after having been checked by an inspector, copies are placed on file at the Branch. The chart is returned to the penitentiary with a covering letter authorizing the expenditure, and a copy of this letter is sent to the chief trade instructor. A simplification of this routine seems to be advisable.

Chapels

The chapels at St. Vincent de Paul Penitentiary are better than the average, although the Roman Catholic chapel is somewhat small and the inmates are pressed against one another so that, notwithstanding the close watchfulness of the officers, regrettable and reprehensible incidents are bound to occur.

Your Commissioners recommend that a hall sufficiently large for concerts, physical drill, and walking exercises in bad weather should be constructed. At the present time such activities take place in the chapel. Your Commissioners are of the opinion that the chapels should not be used for these other purposes.

The Protestant chapel is suitable, but the organ in it is worn out and needs replacing. A synagogue is provided for those of the Jewish faith.

Roman Catholic Chaplain

The Roman Catholic chaplain who was in charge when your Commissioners visited St. Vincent de Paul Penitentiary has since resigned, and has been replaced.

Protestant Chaplain

The Protestant chaplain at St. Vincent de Paul greatly impressed your Commissioners as being the best type of clergyman for such a position. He has a great knowledge of human nature, he is imbued with a true missionary spirit, and he displays a humane attitude, which encourages the inmates toward reformation and rehabilitation. In his interview with your Commissioners he displayed a wide knowledge of penology. He has made a thorough study of the problems inherent in the penal system and he is giving much thought to the solution of these problems. It is noteworthy that your Commissioners did not receive any complaint against the Protestant chaplain from either inmates or officers.

Jewish Chaplain

In addition to the Roman Catholic and Protestant chaplains, a Jewish rabbi, on a part time basis, is taking care of the spiritual needs of those of the Jewish faith. The rabbi has been connected with the penitentiary for twenty-five years, and he appears to be quite competent in his duties and sincerely concerned with the reformation and rehabilitation of the inmates under his care.

Education: School, Library, Teacher, and Librarian

The educational department, both library and school, is conducted by teacher-librarian J. A. Fiset and assistant teacher-librarian Piuze. The schoolroom and library are quite adequate for their purposes.

Unfortunately, educational instruction is not conducted in a satisfactory manner at St. Vincent de Paul Penitentiary. The educational department, which should take so important a part in the reformation and rehabilitation of the inmates, seems, indeed, to be another failure. Teacher Fiset, who is of a very nervous and excitable type, lived in complete fear of the late warden, and, although well-learned, does not seem to have the necessary qualities for teaching. Actually, the teaching is done by inmate monitors and not by the teacher, and no teaching whatever is given to those who have attained the third grade. No instruction is given in the cells, as required by the regulations, and the teacher does not return in the evening to interview or teach the inmates. Although the penitentiary regulations provide for correspondence courses, they are not permitted at St. Vincent de Paul because the teacher does not approve of them, even when conducted by the universities. As a contrast, such courses are provided at Kingston Penitentiary by

professors of Queen's University. The teacher at St. Vincent de Paul does not allow the inmates to work for their diplomas because he maintains that the penitentiary is not a university and that if the inmates wish to get their diplomas they can get them outside.

The library department is also under teacher-librarian Fiset. There are 3,563 French books and 2,591 English books in the penitentiary library. According to regulations peculiar to this penitentiary the inmates are entitled to two books a week, one on Wednesday and one on Friday. After six months they are entitled to a third book per week. It is optional for them to have magazines instead of books. The library system is the most complicated one your Commissioners have ever seen, and there are 217 forms in use and forty-five inmates employed, whereas, even in vastly more extensive libraries in United States institutions and in those of other countries, two or three assistants are all that are required. The teacher had been working on a catalogue of books for three years and it was still in the course of preparation at the time of our visit. About half the books in the library have pages torn out of them and, if an inmate complains about this, a report is made against him and he is punished. Your Commissioners have seen books on which the following notice was inscribed: "The librarian knows that there are pages torn in this book and, if you complain about it, you will be punished." There are an average of 136 complaints a month, and the teacher, himself, admitted that about forty-nine of them were well founded. With respect to the remaining eighty-seven complaints, the teacher is in the habit of making reports in which he states that they are false, and, as the result of these reports, the inmates who have complained are punished. There are two causes of this abundance of complaints; first, a complicated and clumsy system, and, second, the excitability and custodial anxiety of the librarian. A great number of books are not in circulation. The explanation of this, as furnished to your Commissioners by the teacher, was that they had not yet been catalogued and that some of them had not yet been approved by the Protestant chaplain. When the Protestant chaplain was questioned concerning this, he stated that he had never been asked to approve these books and that he had never had them in his possession. Your Commissioners discovered that the librarian does not help the inmates in choosing their books, nor does he give them any reading guidance whatever.

Your Commissioners have concluded that education and the library management at St. Vincent de Paul Penitentiary are both entirely unsatisfactory and that the teacher-librarian does not possess the necessary qualifications for his position.

LAVAL BUILDINGS

The first step toward the erection of a "preferred class" penitentiary was made in Canada in 1895, when Parliament appropriated moneys to begin the erection of the first building of its kind in the world. After two years, however, work on the building was stopped and the project

definitely abandoned. The subject was revived by Superintendent W. S. Hughes, who recommended year after year that separate institutions should be provided to permit the segregation and classification of the penitentiary population. On April 4, 1929, Hon. Ernest Lapointe, Minister of Justice, announced in the House of Commons that the Government had under consideration making provision for the establishment of a special institution for the purpose of segregating young prisoners from hardened criminals. In his report of 1930, Superintendent Hughes was able to state that, after thirty-five years delay, Canada was to have two "preferred class" penitentiaries, one at Collin's Bay and one at St. Vincent de Paul, and that, in respect to the latter, property had been purchased immediately across the street, and only thirty feet from the administrative building of St. Vincent de Paul Penitentiary.

In 1930-31, preliminary work was commenced on the grounds of the "Laval Buildings," as it had been decided to name the new institution opposite St. Vincent de Paul Penitentiary. Buildings already on the grounds had been torn down and the grounds had been enclosed by a wire fence. Roads had been built, water had been laid on, and electricity and telephone installed. Fifty carloads of timber, cement, and other supplies had been unloaded and stored.

On July 27, 1931, Hon. Hugh Guthrie, then Minister of Justice, made a statement in the House of Commons endorsing the policy laid down by Hon. Ernest Lapointe as to the purpose of "preferred class" institutions. He stated that he hoped others would be established throughout Canada, and mentioned in passing that the term "preferred class" had not been consciously adopted but had more or less "grown up." He defined the purpose of the institution as being to segregate first from old and hardened offenders. He stated that the idea in this was to give the first offenders an opportunity to reform, unhampered by the bad influences of hardened criminals. He pointed to the reformatory at Guelph, where there were neither stone walls nor fences and where men worked in the open, as the example to be followed. The "preferred class penitentiary," he stated, "follows as closely as possible the model of the reformatory at Guelph."

Construction has been carried out entirely by prison labour, and this has delayed completion of the project because of the lack of skilled workmen incarcerated in the penitentiary.

The 1932 report of the Superintendent stated that progress had been made in the construction of the ducts and culvert. In the following year it was reported that the culvert had been extended, a main duct of 188 feet completed, excavation made for the duct of shop "H," excavation and foundation made for shop "J," and fifty per cent of the concrete foundation completed; shop "M" had been completed up to the erection of steel work, and excavation had been completed, and foundations laid, for two towers. In 1934, rearrangement of the wall was made because of the discovery of a spring at the northern corner of the grounds. In 1935 it was reported that the construction of the boundary wall and

towers was going forward, the main duct to connect St. Vincent de Paul with the Laval Buildings begun, and 1,000 feet of water pipe and sewage pipe built. In 1936, the duct between the two institutions was completed and construction of the walls was being continued. No specific mention is made of the work completed in the year 1936-37.

Your Commissioners have examined a blueprint, dated April 5, 1932, showing the proposed wall to be 950 by 1,200 feet. The north corner of the property was cut by a culvert, and it was proposed to fill in the depression of ground at this corner. On April 16, 1932, a second plan was approved to leave the culvert and depressed area outside the walls by shortening the north-east wall by 100 feet. This plan was not actually recommended until June 5, 1933. It was approved two days later. A blueprint, dated April 18, 1932, shows the proposed wall to be formed of a concrete base surmounted by a thirty-foot unclimbable wire fence, with towers at each corner of the property. On January 13, 1933 the Superintendent suggested that the wall should be changed from this construction to a wall twenty-three feet high of stone facing throughout. This was approved on January 20, 1933. On July 2, 1935 the plan of the wall was changed again to provide for a masonry wall twelve feet high, surmounted by an unclimbable wire fence ten feet high.

A blue print, dated November 10, 1936, marked "tentative scheme," shows the plan of the buildings. In the forefront is the administrative building. A corridor leads back from this, with wings opposite to each other at regular intervals. First is the hospital and receiving wing (left), and shop "M" (right). Next comes the Protestant chapel and the school (left), and the Roman Catholic chapel and the library (right). Then a pair of cell blocks containing 100 cells each is followed by another two cell blocks. Beyond this is a cross corridor leading to three shops on either side, and beyond the cross corridor is the laundry (left) and the kitchen (right). No indication is given as to whether barrier or outside type cells were to be constructed in the cell blocks, but inquiry reveals that the present intention is in favour of the outside cells. On December 3, 1937, an estimate of the cost of the Laval Buildings walls and towers was presented to your Commissioners, which showed a total cost of \$1,549,000 for building and \$839,531.44 for lands and miscellaneous items, or a total of \$2,380,931.44.

Only two plans have been prepared by the Chief Engineer's office, the one mentioned above and a previous one under date of June, 1930. Neither has been officially approved.

The foundation duct of shop "J" was begun and two-thirds of the foundation poured, when, on May 31, 1933, orders came from the Superintendent to cease construction for reasons of economy. The warden of St. Vincent de Paul reported on July 19 that the excavation already completed was being filled in by the action of rain and drainage and that, if left uncompleted, the work would have to be repeated. On August 9 the Superintendent authorized recommencement of the work.

The present state of the Laval Buildings and the work that has been completed to date is as follows:

| | |
|----------------------------|----------------------------|
| L.C. Shop "M" | 78 per cent completed; |
| L.C. 2 Shop | Foundations only; |
| L.C. 3 Shop | Foundations only; |
| L.C. 15 Boiler House . . . | 95 per cent building only; |
| Boundary Walls and Towers | 60 per cent; |
| Main Underground Duct . . | Completed; |
| Culvert | Completed. |

From the above it will be seen that no complete plan has ever been approved; that tentative plans have been approved and construction has been begun in a desultory and tentative manner; that it has been found necessary to change the plans because of the lack of proper preparatory work; that the construction of the wall has been changed, while actually in the course of construction, from part concrete and part wire to complete masonry, and back again to part concrete and part wire, and that the foundation work was commenced, and then suspended until partially filled in, and then recommenced. This haphazard and expensive method of construction appears to have been followed as a general course, and your Commissioners strongly recommend that, in future, proper preparatory survey work should be done and construction plans scientifically worked out and definitely decided upon before construction has been commenced, and that, when once commenced, the original plans should be adhered to unless some very serious error requires correction or some very important improvement can be effected.

Your Commissioners regret that the Laval Buildings should have been located so close to St. Vincent de Paul Penitentiary as to seem a part of the latter. The whole policy of the segregation and treatment of first offenders, as was originally intended, was to remove these first offenders from the penitentiary atmosphere and give them reformatory treatment with as little emphasis on punishment and custody as possible. To locate the new buildings thirty feet from St. Vincent de Paul Penitentiary and surround them by a high stone wall, is to recreate the very penitentiary atmosphere that already existed in St. Vincent de Paul Penitentiary. This is further emphasized by having the same warden as the penitentiary, and the staff interchangeable between the two and composed of the same personnel.

CHAPTER XXIV

KINGSTON PENITENTIARY

Buildings and Grounds

The process of rebuilding Kingston Penitentiary started in 1891 and is not yet completed. In recent years the women inmates have been moved out of the building in the main enclosure to an institution built especially for the purpose, and the building thus vacated, as well as the old "Prison of Isolation," are now used as cell blocks for male prisoners.

As has been stated elsewhere in this report, there is at present cell accommodation for 805 inmates at Kingston Penitentiary. The cells in the old "women's prison," now used for class "A" prisoners, are of the closed door type with outside windows. The cells in the "Prison of Isolation" building, numbering 204, are the back to back barrier type, but are twice the size of the cells in the main dome. The cells in the main cell block are all of the inside barrier type. Lighting and ventilation are poor. There is a great variation in temperature between the top and bottom tiers of cells. Many complaints were made of the dampness and lack of ventilation and light in the cells.

Opposite the north gate, across King Street and situated at the top of a number of terraces, is the old "Warden's Residence." In 1933-34, this building was converted into an administration building and the deputy-warden's residence was renovated and remodelled for the warden.

Residences for the Protestant chaplain and the deputy-warden were being built to the north of the present warden's residence at the time of the visit of the Commission. Other cottages are in the course of construction on penitentiary property in the vicinity.

North of the administration building is the new Women's Prison, which is dealt with in another part of this report,¹ and, across Union Street, the penitentiary property, including the farm and stone quarries, extends northward to the Bath Road near its junction with Highway No. 2. In addition to the two main streets that divide the main building from the farm, another public road crosses the penitentiary farm property, so that prisoners who work outside the walls must march to and from their work on the public streets and across public streets. In the opinion of your Commissioners, this is highly undesirable. We believe that, with the completion of Collin's Bay and the classification of Canadian penal institutions, some thought should be given to restricting Kingston Penitentiary to classes of prisoners who do not work outside the walls.

A wall is now being constructed to enclose a narrow strip of property to the east of the main enclosure. In order to add this narrow strip to the prison yard, a wall, to cost \$40,000, is being built to duplicate the present east wall, but a few yards further out. Short extensions will join this new wall to the penitentiary enclosure, and then the present east wall

¹ Chapter XXVI.

will be demolished. In the opinion of your Commissioners, this expensive adjustment of the wall is entirely unjustified by any advantage to be gained by adding this additional strip to the penitentiary enclosure.

Kingston Penitentiary can at best be but a remodelled institution. Many of the constructional faults persist and cannot be entirely overcome except by entire rebuilding. Improvements and additions are constantly being made, but without the necessary long-range planning calculated to make them effective. The present penitentiary does not lend itself to a proper system of classification and is more fitted to be itself a classified penitentiary. The workshops, which are located in the oldest buildings of the penitentiary, are dingy and dirty. Your Commissioners have seen in England and Philadelphia how buildings that are much older than the south dome at Kingston have been made quite cheerful and bright by constant painting and cleaning, and they see no reason why this should not be done at Kingston. The prison yard behind the south dome buildings, where the prisoners exercise, is dusty in dry weather, muddy in wet weather, and covered with snow and slush in winter.

While the hospital and kitchen in particular require immediate structural alterations, your Commissioners recommend that no other important or costly building operations be undertaken until considerable thought has been given to the use to which Kingston Penitentiary is to be put in the future. When the whole question of classification and the classification of institutions has been thoroughly examined, and the policy which is to be followed and the use to which the various penal institutions are to be put have been decided, plans of each institution should be drawn, which will eventually provide for the adaptation of the institution to the purpose for which it is to be used. When such plans have been made, any alterations, new construction, or rebuilding should conform to the basic plan.

General Discipline

Your Commissioners were at Kingston for a number of weeks and, in going about the penitentiary daily, were able to form a definite opinion of the normal discipline in the establishment. The general appearance and conduct of the staff was unsatisfactory. A general laxity appeared to exist, which, if so evident on the surface, must extend deeper into the conduct of everyday affairs and have a demoralizing effect upon the discipline and morale of officers and inmates alike. Guards on duty in charge of inmates could be seen lounging about the penitentiary grounds with tunics unbuttoned, occasionally waving a hand or passing colloquial greetings with fellow officers. While your Commissioners do not approve a militaristic discipline of unyielding rigour, they are of the opinion that neatness of appearance and alertness of mind and body should be indispensable characteristics of a penitentiary officer. Example more than precept will prove effective in influencing the inmates toward an improvement in their morale and a rebuilding of their self-respect. The

appearance and bearing of the officers should be an influence for betterment instead of an example of futility.

Three wardens have been in charge of the administration of Kingston Penitentiary during the past ten years. Warden Ponsford gave place to Warden Megloughlin, and he to Warden Allan, the present incumbent. Mr. Gilbert Smith was acting warden for a time just prior to the riots of 1932. Each one of these wardens had their own conception of discipline and enforced it, under the direction of the Superintendent, according to their different views. There was a time when musical instruments were permitted to be used by prisoners in their cells. This resulted in a bedlam of noise, with prisoners yelling, singing, swearing, and playing instruments for four or five hours a day. Eventually this was stopped. For a time softball was permitted during recreation periods. Justice in the warden's court has varied greatly with each warden's attitude toward men and officers.

If proper classification existed at Kingston Penitentiary and the "trouble-makers" were segregated there would be no necessity for the present large number of officers. Moreover, if such officers as were employed were selected because of their fitness for the work, and were then trained in their duties, better results would be secured with fewer officers, and there would not be the same justification for complaints of brutality, favouritism, nagging, and laxity of discipline. According to the present warden, about forty per cent of the prisoners are of subnormal mentality. It is very difficult to maintain a proper discipline when subnormal and sometimes psychopathic inmates are mixed with "trouble-makers" who will incite them to breaches of discipline. Apart from the laxity of discipline among officers and the psychological and educational unfitness of many of them for their positions, which inevitably results in laxity of discipline among the inmates, and, apart from the lack of classification which permits a few "trouble-makers" to incite unrest, idleness is the great enemy of discipline in Kingston Penitentiary. Men who are not employed, who have nothing to interest or occupy them, who have no emotional or mental outlet, and who are shut up long hours in their cells, become hag-ridden by monotony, until constantly repeated irritating trifles provoke them into flaring revolt or drive them into a state of mental instability.

Warden

Warden Allan has been in the penitentiary service since 1913 and has risen by promotion over a period of years to the appointment of warden of Kingston Penitentiary in 1934. He has had experience as carpenter and trade instructor at Saskatchewan Penitentiary and at British Columbia Penitentiary. He was for a time structural engineer at the Penitentiary Branch in Ottawa, and later warden at Collin's Bay before his transfer to Kingston Penitentiary.

In response to a request from the Commission, Warden Allan has furnished a very instructive report containing many constructive sugges-

tions on prison management, and he has prepared a commentary on the penitentiary regulations, which is based on his experience of their practical application. His conduct of warden's court has been as satisfactory as the limitations, pointed out in another chapter of this report, permit. The laxity of the discipline at Kingston Penitentiary cannot be attributed altogether to the warden in view of the type of guard employed, the more vicious type of criminal confined in Kingston Penitentiary, and the difficulties engendered by lack of classification and by inadequate facilities for employment. The lack of initiative permitted wardens by the Penitentiary Branch, the impracticability of many of the regulations, and the necessity of devoting so much of his time to voluminous correspondence with the Penitentiary Branch have, as in the case of other wardens, greatly handicapped the efficiency of his administration.

The majority of the complaints that were made against Warden Allan by inmates who appeared before the Commission may be traced to the difficulties and injustices of the present system of conducting warden's courts, as outlined in another chapter,¹ and to other regulations which bear most heavily upon the inmates and which the warden is powerless to alter.

The opinion of your Commissioners is that Warden Allan is conscientious and upright in the performance of his duties but that he would perhaps be more fittingly employed in connection with penitentiary industries and construction work. He has limitations of education and experience which in a more efficiently staffed penitentiary service would have prevented his rising to the position of warden. Within these limitations, however, he appears to be performing his duties as satisfactorily as possible.

Deputy Warden

George Sullivan, the deputy warden, is sixty-two years of age. He entered the penitentiary service as a guard in 1894. He was promoted to instructor in 1918, and to deputy warden in 1933. He is not the type of officer who should, in our opinion, be promoted to warden.

Chief Keeper

James Atkins, the chief keeper, entered the service in 1920. He was promoted chief keeper in 1933. Chief keeper Atkins did not avail himself of the invitation to appear before your Commission. He found it convenient to leave for his holidays without informing the Secretary or ascertaining the wishes of the Commissioners. We have not had the benefit of the views of this officer. Although unsatisfactory reports were made against him we were unable to determine their accuracy owing to the course adopted by him.

Industries

Another chapter of this report has been devoted to the general subject of prison employment and the inadequacy of the employment facilities

¹ Chapter V.

in Canadian penal institutions.¹ The views expressed in that chapter apply with full force to Kingston Penitentiary, where complaints regarding lack of employment were made by nearly all officers, and complaints regarding lack of trade instruction were made by many of the inmates.

The workshops are located in the oldest buildings of the penitentiary and their natural gloominess is accentuated by the grimy walls. No effort is made to improve the condition of these shops, which might so easily be made bright and clean by washing and painting. In a penitentiary where lack of employment is so keenly felt there would seem to be no justification or excuse for this state of affairs.

Prison industries, which once gave employment and instruction to prisoners and revenue to the penitentiaries, have been drastically curtailed or abolished by instructions from the Penitentiary Branch. Machinery is in many cases out of date or obsolete. The prisoners, many of whom enter the penitentiary without trades by which they could, if they wished, earn an honest livelihood, and many of whom have been sent to the penitentiary in preference to other institutions because the judge who sentenced them believed they would be taught a trade in the penitentiary, are discharged no better able to compete in the labour market than when they entered.

In the steamfitting shop, estimates are so carefully pared that the instructor dare not allow untrained men to work because of the fear of unavoidable spoilage of materials by inexperienced workers. This is also true of the tin and paint shop as well as others.

Some useful work is being done in the carpenter shop, but the number of inmates who can be employed there is limited, and the work is mostly manual and gives no training in machine work that is in general use outside. Here, too, materials are provided only for specific work about the penitentiary and not for training purposes or for revenue.

The assignment of men to the shops is not intelligently carried out. Young prisoners are barred entirely from the shops because of the present impractical method of segregating them.

Instructors who are competent workmen, and who would make capable instructors if given an opportunity, are not paid enough to attract them from outside employment. Many possibilities of employment and suggestions regarding possible industrial training and production were made at Kingston and, as your Commissioners have recommended elsewhere, this whole subject should be considered with a view to increasing facilities for instruction and production for revenue in the penitentiaries.

Farm

The farm at Kingston Penitentiary has been fully dealt with in another chapter.¹ In view of the necessity of marching prisoners through the streets to reach the farm property, and in view of the acreage available at Collin's Bay, it is doubtful if this farm should be maintained in connection with Kingston Penitentiary. If, at some future time, the present

¹ Chapter IX.

Women's Prison is devoted to other special use as a classified institution for men, the farm might better be worked by inmates of this penitentiary, which is only divided from the farm by one public thoroughfare.

Recreation

As is pointed out in chapter VIII of this report, recreation, both indoors and out, is a necessary emotional outlet for inmates of penal institutions. It is generally recognized that without some interest of a recreational nature inmates will concentrate on undesirable subjects such as sex and crime.

After the riots in 1932 Warden Megloughlin introduced soft ball in Kingston Penitentiary. He started with medicine ball, and, finally, with the Superintendent's knowledge and when the Superintendent was present in Kingston, he supplied the equipment and permitted the inmates to play soft ball. The doctor and chaplain both agreed that the morale of the prisoners was raised by their interest in this game and that immoral and obscene language was noticeably less in evidence.

The Superintendent stated in his evidence that he, himself, was responsible for the playing of soft ball at Kingston Penitentiary and that later he had it stopped because abuses of the privilege were developing. He gave as his reasons for stopping soft ball: (a) prisoners made a practice of batting the ball toward the segregation cells in order to get into communication with prisoners segregated there, and (b) regularly organized schedules of teams and games had been organized. Warden Allan stated that he was not opposed to soft ball if the inmates were properly segregated and facilities for supervision, etc., were available, but that under present conditions it would not be advisable. Playing soft ball was, perhaps because of the lack of segregation facilities, too hastily instituted. This experiment and its results show the necessity of considering most carefully the institution of innovations before they are put into effect because of the violent reaction of prisoners when a privilege, once granted, is taken away from them.

Young Offenders

The futility of the present method of segregating youthful offenders from older criminals is dealt with in another chapter. At Kingston Penitentiary the same complaints regarding the lack of trade instruction and exclusion from the workshops because of their segregation were offered to your Commissioners, but here the situation is further aggravated by the ignorant and profane type of guard placed in charge of the youths and by their being removed from school to do outdoor, manual, unskilled labour. Moreover, in spite of the disability imposed on the young offenders because of the claim that they must be segregated, your Commissioners found that they were not altogether segregated and that several "Y" class prisoners occupied cells adjacent to other prisoners not in that class. Thus, at Kingston Penitentiary, all the disadvantages of the present unsatisfactory method of segregation are experienced without segregation actually being accomplished.

The teacher stated in evidence that the young prisoners get only two to three hours schooling twice a week and that some of them are taken from school when their services as labourers are required. Only fourteen young prisoners are segregated as a class. He points out that segregation of youthful offenders cannot be accomplished on any satisfactory basis at Kingston Penitentiary. With this view your Commissioners are in close agreement.

The guard in charge of the "Y" class at Kingston Penitentiary was given no instruction as to how the young offenders were to be treated. He considered that his only duty toward them was to see that they were kept busy and obeyed the regulations. He stated that at one time he had been instructed to take them out of school for five months and put them to work on wharf construction. He stated that these youths were very hard to handle, forever talking of crime, using bad language, and that they seemed to take no interest in their work (unskilled manual labour); that they were employed on manual labour in connection with the building of the chaplain's house, sewer digging, and on construction work in connection with building the dock. For a short time they worked in the tailor's shop, but this was dismantled as soon as they were moved out of it.

The warden and deputy-warden stated that the method of segregating young offenders was a farce at Kingston Penitentiary and that there were no facilities for accomplishing it in a satisfactory manner. As the whole subject of classification and youthful and first offenders is dealt with in another part of this report,¹ your Commissioners believe that this indicates the highly unsatisfactory conditions at Kingston Penitentiary sufficiently to support the recommendations they have made elsewhere.

Kitchen and Steward

The kitchen has no dish-drying facilities, no sterilizing equipment, and dishes and cooking utensils are dirty and unsanitary. No towels are provided for drying dishes, and the same water is used in cleaning 1,400 dishes. There is no place for the prisoners who are employed in the kitchen to wash, and only one toilet for forty-three men. Both the kitchen and bakery are dirty. The butcher shop also is dirty and infested with flies. In the kitchen, due to lack of proper drainage, the floor is often covered with dirty water. An odour of garbage pervades the entire commissary department.

As in other penitentiaries, the food, though of excellent quality, is poorly cooked, and rendered flavourless by steaming. There is sufficient food, but it is poorly distributed in that every man is given practically the same quantity, which may prove too much for a man engaged in clerical work and too little for a man engaged in heavy outside labour. As a result of this uniform treatment much food is wasted and some men may go unsatisfied.

The steward is entirely untrained in his duties, being promoted to his present position from employment as a guard. He is slovenly and

¹ Chapters VIII and XXVII.

careless and has taken insufficient precautions to eliminate cockroaches or to prevent mice gaining access to food in storage. He is not particular as to whether the food served to the inmates is entirely fresh.

The suits worn by kitchen workers are not kept clean and the men selected for this work are generally untrained.

The entire situation in the kitchen is highly unsatisfactory and, in the opinion of your Commissioners, immediate steps should be taken to provide the necessary structural alterations, proper equipment, a trained steward, and the employment, if possible, of prisoners who have had previous experience as cooks.

Hospital

The hospital, part of the original cell block built sometime in the 1850's, has a vault-like appearance. There are twenty-four cells on the main floor and twelve cells on the second floor. The hospital is dark; the cells are narrow and gloomy, and there are no outside windows in the cells. A wall shuts out the light which gains access through the barriers. There are no proper toilet or bathing facilities and no sun room. Facilities for segregating infectious, contagious, or mental cases are insufficient, and there is no dark room for eye examinations. The whole building is obsolete, lacking in cleanliness, fresh air, and light. The medical officer, Dr. G. Platt, whose father was a former warden of Kingston Penitentiary, stated in evidence that he knew the hospital thirty-seven years ago and that it was then unsatisfactory and obsolete.

Dr. Platt states in a brief, which he prepared at the request of the Commission, that the hospital has stood as it is for many years, untouched in its essentials by progress in the fields of medicine and surgery and only improved at all in its equipment. The defects he lists as follows:

Absence of shower baths.

Insufficient baths.

Lack of toilet facilities in the cells.

Small dark cells for the confinement of sick prisoners.

Absence of means of segregation or isolation.

Absence of any place for washing dishes.

Absence of any place where venereal disease cases may be treated.

Insufficient room for hospital services.

Absence of sun room.

Absence of place for segregation of mental cases.

Lack of diet kitchen.

The lack of sufficient bathing facilities in a hospital is a danger so obvious as to require no comment. The use of buckets in the cells because only two toilets exist in the hospital is another feature which requires no comment. A wash basin and pitcher of water complete toilet arrangements, which are so primitive and unsanitary as almost to be beyond belief.

The cells throughout the hospital building are unfit for anyone who is sick; dark, and utterly cheerless. Instead of being the best in the institution, they are without doubt the worst. There are no facilities for proper segregation. Tubercular patients are confined in cells which are dark and gloomy and have no access to the sun or fresh air.

The conditions in the hospital were condemned in the report of the 1913 Commission, and, since then, year after year have been reported to the Superintendents of Penitentiaries, but yet no adequate action has been taken to remedy the situation, while money has been spent on construction, which, in the opinion of your Commissioners, was unnecessary and unjustified. Your Commissioners cannot recommend too strongly that immediate steps be taken to rectify these disgraceful conditions.

Doctor and Medical Services

Having regard to the conditions existing in the hospital at Kingston Penitentiary, it will be realized to what an extent medical services and the proper treatment of inmates are handicapped.

Dr. Platt has had a distinguished university training at Queen's University, Harvard, and Edinburgh, where he has obtained the degrees of M.A., M.D.C.M., L.R.C.P. & S., and F.R.C.S. (Edinburgh). He entered the penitentiary service in 1929. In the opinion of your Commissioners, Dr. Platt is kindly by nature but, due to criticism of the number of special diets and exemptions from heavy labour given by him during his first years at the penitentiary, and the discouraging conditions with which he has had to contend, he has now become too institutionalized.

Medical examination of prisoners on admission is not sufficiently thorough, and there is no regular check made on the health of the inmates. If a prisoner does not report sick he may never be examined again by the doctor during his entire sentence. The treatment of prisoners who have been injured in rioting has in many cases been brutal, and proper diagnosis and treatment have been refused.

As usual, many complaints were received from prisoners as to neglect, punishments for malingering, etc. and, while many of those complaints may have had some justification, the majority are the inevitable outcome of petty grievances and detected malingering.

The dentist at Kingston Penitentiary is on a part-time basis. He is fully qualified and, although the usual complaints of neglect were made by dissatisfied inmates, dental treatment appears to be quite adequate. The medical officer refers to the "amazing amount of dental work" done for the inmates. More strict attention should be given to the disposal of gold fillings extracted from prisoners' teeth. Complaints were received as to bridge work extracted by a former dentist and not replaced.

Both with regard to medical and dental attention, remarks made elsewhere, regarding the unnecessarily voluminous correspondence with the Penitentiary Branch regarding authorization for treatment, apply with full force to Kingston Penitentiary.

Chapels

The chapels at Kingston Penitentiary are above the commissary and kitchen, with the school room sandwiched in between them. The Roman Catholic chapel was last painted in 1931, but there is no record of when the Protestant chapel was last painted—certainly not within the past fifteen years. It is dirty and unattractive. The mottoes on the walls of the Protestant chapel are an incentive to irony rather than to reform, and they should be removed. As there is no suitable recreation or concert hall, the chapels are used for this purpose. Both chaplains are opposed to this.

Chaplains and Religious Services

Father Kingsley, the Roman Catholic chaplain, has a dynamic personality, and his influence extends far beyond the confines of his chapel. He is opposed to the chaplains being appointed as officers of the penitentiary, believing that they should be selected by the dioceses on a volunteer basis. Your Commissioners believe that Father Kingsley has the welfare of the prisoners under his care at heart and that he strives hard for their moral development.

Several complaints were made that the Protestant chaplain lacked the proper personality and approach to the men and that he was unable to gain their confidence. While your Commissioners believe that he is earnest in his work, we do not find the same evidence of results as we found in some other penitentiaries. It is very important that chaplains should possess the ability to secure the confidence of the inmates if they are to be able to influence them.

Education: School, Library, Teacher and Librarian

The school room at Kingston Penitentiary, which is only forty-five feet by nineteen feet in area, is crowded by the average attendance of forty inmates and very much overcrowded by the occasional attendance of over fifty. The walls of the school room are unbelievably grimy. There is no record of their having been painted in the past fifteen years and they have not even been washed for a considerable period. In a room which should, above all, be bright and clean this negligence is inexcusable. The blackboard is in a poor state of repair. The room possesses only one window, and the lighting, supplied by a few 25 watt lamps, is very poor. The school teacher has repeatedly recommended larger and improved quarters but, as in the case of the hospital, no action has yet been taken.

As has already been stated, the young prisoners who, most of all, require education, are taken from school to do manual labour. Construction and production always seem to take precedence of education in our penitentiaries. Inmate after inmate appeared before your Commission to complain that they desired schooling but could not obtain it. It has been charged that the teachers have time only to instruct illiterates or to press the better educated inmates on to entrance and matricu-

lation examinations, and that those who can read and write, but have not sufficient education to equip them for life, are neglected.

The teacher, Mr. Patterson, informed your Commissioners that inmates who were attending school received about two hours schooling per day, and the young prisoners two or three hours twice a week. During the months of July and August no school is held. For part of this time the teacher takes his vacation and, during the remaining time, intensive work is undertaken in connection with the library.

The school teacher suggested that more time should be devoted to schooling and that evening classes might conveniently be arranged without raising any important custodial problem. He also suggested the advantage of co-operation between the school and workshops to enable inmates to learn theory as well as practice when trade instruction is made available. Your Commissioners believe that these suggestions should be given very careful consideration and, if found practicable, should be adopted.

The regulations provide for compulsory education, but in Kingston Penitentiary this might prove unsafe and impracticable in view of the lack of proper facilities for handling such a large number of prisoners. At present it is the practice to select the school list from those who are illiterate, or very nearly so, and who are yet teachable. The school teacher believes that in this institution about 300 of the inmates could not be educated. For some time inmate teachers were used at Kingston, but now that assistant teachers have been provided inmates are no longer employed in this work.

The teacher denied that he had neglected illiterates to push better educated prisoners through their entrance examination. He contended, however, that success in this examination might have a reformatory effect, both as encouragement to others, and because of the effect of such success on those who had never before experienced success.

The teacher, who is also librarian, has to divide his time between the school and library. He and his assistants have more than they can do to conduct the school if it is to be properly conducted. Your Commissioners are of the opinion that some use might be made of inmate teachers and that a special library-trained assistant should take charge of the library so that the teacher could devote his entire time to the important task of education.

The "General Library Catalogue" of Kingston Penitentiary, dated 1933, and the last one compiled, shows a division of the library into non-fiction, fiction in English, French, Italian, and Russian, bound volumes of magazines, and school books. There are 5,808 volumes in all, of which 3,890 are classed as fiction and 1,918 as non-fiction. A list of magazines, of which there may be several copies, shows subscription to fifty-nine English language magazines and five in the French language. The news bulletin is issued weekly by the library staff.

Many of the complaints received with regard to Kingston Penitentiary library had to do with lack of magazines and newspapers, lack of

technical and trade instruction books, and over-severity of censorship. The library has no provision for text books. Difficulties are experienced in getting orders through for new books and in securing subscriptions for particular magazines.

Inmates are permitted a new fiction book every day, a magazine every other day, and a reference book once a week, in addition to school books. Books which are bought by inmates during their stay in penitentiary must be left with the library when they are released.

The library itself is little more than an alcove over the entrance of the dome, awkward of access and unsuited for its purpose. More adequate accommodation should be provided when the chapel, school, kitchen, and hospital replanning and rebuilding are carried out.

Careful revision of the collection of books should be made periodically, and those books which are seriously mutilated or worn should be replaced. A careful examination of the frequency with which individual books are called for should be made. This would indicate the reading interests of the inmates so that their recreational reading might be directed in accordance with some definite plan, and the inmates encouraged to graduate from the lighter type of fiction into more educative and informative literature. The library should take its place in the general plan of the whole penitentiary and exert its share of influence in attaining the reformation and rehabilitation of the prisoners.

COAL SHORTAGES

In the course of their investigation, your Commissioners examined the records of two inquiries made into alleged coal shortages at Kingston Penitentiary and also questioned the members of the boards of inquiry held to investigate these shortages. The first inquiry was held in July, 1933, as a result of a statement by Engineer Nixon, of Kingston Penitentiary, that, on taking stock for the year ending March 31, 1933, he had found a coal shortage of 600 tons and 729 pounds, valued at \$3,303.95, and which he had written off this amount to "profit and loss." As a result of this statement, a board of inquiry, composed of W. H. Craig, now warden of Collin's Bay Penitentiary and at that time an inspector of penitentiaries, and G. A. Dillon, purchasing agent of the Department of Justice, sat at Kingston to investigate this matter, and subsequently made a report dated July 10, 1933. Although Mr. Dillon sat on the board, the investigation seems to have been in charge of Inspector Craig. He conducted the examination of the various witnesses, prepared the report, and, on its completion, had it signed by Mr. Dillon. The latter attended the inquiry on verbal instructions from the Superintendent of Penitentiaries and would appear to have acted more or less in an advisory capacity. The board's findings were as follows:

"The Board, after taking into consideration (a) the reliability and well-known integrity of the firm of contractors; (b) the loose method employed in checking the weights when the transfer is made

from the dock to the coal vault; (c) that only 98 tons are shown by the Engineer's records to have been issued in three months ending September 30, 1932, are of the opinion that there is no sound basis to assume that there existed an actual shortage of coal.

After careful consideration the Board are further of the opinion that all the coal paid for between July 1, 1932, and March 31, 1933, was delivered by the contractor and that all the coal received during that period was consumed at the Institution except a small percentage which may have disappeared in dust or on account of action of the weather."

Your Commissioners, after examining the evidence taken by the board and after hearing Messrs. Craig and Dillon, are of the opinion that there was not sufficient evidence adduced before the board to justify such findings. The coal supplied to the penitentiary was apparently hauled by rail to Oswego, New York. James Sowards & Co., the firm from whom the department had purchased the coal, transported it across lake Ontario and unloaded it on the dock at Kingston Penitentiary. The coal was not weighed by the penitentiary officials, who accepted the figures shown on the freight bill, customs entry, and bills of lading.

Paragraph 7, of the report of the board is as follows:

"The record of coal received and consumed from July 1, 1932, to March 31, 1933, shows the following:

| | | |
|-------------------------|-------------|-------------|
| Received | 3,907 tons, | 182 lbs.; |
| Consumed | 3,306 tons, | 1,452 lbs.; |
| Apparent shortage | 600 tons, | 729 lbs." |

Inspector Craig was asked by the Commission to point out any evidence taken before the board showing that 3,907 tons and 182 pounds had actually been received at the penitentiary. His answers were to the effect that the only evidence adduced consisted of invoices given by the contractor to the storekeeper, whose duty it was to ascertain that the amount ordered was actually received. The storekeeper had appeared before the board and been asked, "What steps do you take to satisfy yourself that the weights of coal brought in by water are correct?" His answer was, "I take the freight bill and customs entry." Finally, Inspector Craig was asked by the Commission:

"Q. There is no evidence that actually there were 3,907 tons, 182 pounds delivered on the wharf?

A. No, other than the explanation of the storekeeper which is absurd. That was done apparently under the authority which he received from the Warden in 1921 to act as he did, and that is the reason for the recommendation in the 10th paragraph."

Inspector Craig was also asked the following questions:

"Q. Did you call anybody from the contractors, did you have anybody from them before you?

A. No.

Q. Did you have anybody from the people in charge of the boat or boats before you?

A. We had no person except those whose evidence was taken.

Q. Did you have anybody who had anything to do with the weighing before?

A. The weighing at Kingston?

Q. Any place?

A. The weighing was done at Oswego across the lake.

Q. Did you look into that?

A. We did not consider that. We had the bills of lading."

The finding of the board that they had taken into consideration "the reliability and well-known integrity of the firm of contractors" is also subject to criticism. No evidence to substantiate this was produced before the board, and Inspector Craig acknowledged before your Commission that this finding was based on his personal knowledge of the firm. The following evidence on this point is illuminative:

"Q. In making an inquiry like this, do you think you should draw conclusions from your own personal knowledge?

A. In the case of an inquiry of this kind, we have to take into consideration whether we are dealing with honest men or not.

Q. That may be so far as your opinion goes but do you think you should have put that in the report?

A. No, I should have left this out.

Q. You say that all the coal paid for between July 1, 1932, and March 31, 1933, was delivered by the contractor; on what evidence did you base that finding?

A. On our opinion. We had to make up our minds, did the penitentiary receive the coal or did it not? On the evidence and what we had heard that it had not been properly weighed and the integrity of the contractors and the accompanying weigh bills or freight bills showing the weights that went into the boat, and generally we formed our opinion."

In view of the fact that shortages in coal had been reported in previous years at Kingston Penitentiary, and in view of the considerable amount involved in the shortage under investigation, your Commissioners believe that the board of inquiry did not make the investigation the circumstances demanded. They should at least have endeavoured to obtain more substantial evidence and, not having done so, they were not justified in making such findings. Furthermore, the testimony of the witnesses appearing before the board was not taken under oath. Your Commissioners believe that in all such inquiries witnesses should be sworn. Inspector Craig's conduct in this inquiry is not creditable.

In July, 1936, Inspector J. D. Dawson conducted an inquiry at Kingston Penitentiary as a result of an allegation made by a prisoner regarding a shortage in the coal account. It would appear from the

records, that a contract was entered into with the Morris Coal Company for 250 tons of anthracite stove coal for delivery at Kingston Penitentiary about the end of May, 1936. The coal was shipped by boat. The vessel arrived at the penitentiary docks on June 10 and was unloaded there. Apparently, the shipment was only part of the boat's cargo and all the coal on the boat was not unloaded. After the freighter's crew had completed unloading an amount of coal, the mate of the vessel asked the assistant engineer of the penitentiary how much he thought was on the dock, and the latter replied, "about 175 or 180 tons." According to the assistant engineer's evidence at the inquiry, the mate's reply was, "Nonsense, there is 250 tons." During the next few days the coal was weighed by prisoners under instructions from the penitentiary officers, the figures of each load were checked against the weight shown on the penitentiary scales, and the records were subsequently given to the storekeeper. On checking these figures, it was discovered that the amount of coal actually received amounted to 217 tons and 1,400 pounds. As a result, the storekeeper wrote to the Morris Coal Company on June 15, advising them of this shortage, and on June 19 the Company delivered the balance by truck from their Kingston yards. The report of the inspector contained the following finding:

"This matter can be dealt with on the evidence adduced by stating that there is not one particle of evidence to show that there was a shortage in the true sense of the word or that there was intended to be a shortage."

Your Commissioners, after reviewing the evidence taken by the inspector and subsequently hearing his own evidence, do not believe that he was justified in so reporting.

The facts are that the contractors in carrying out the order for 250 tons dumped a certain amount of coal on the penitentiary dock. After this had been done, according to the evidence the mate of the vessel told assistant engineer Ramsay that there were 250 tons unloaded. When it was subsequently weighed by the penitentiary authorities it was found to be 32 tons short. It is perhaps significant that, although this weighing was done by a prisoner, the contractors, on being notified of this shortage, immediately made up the deficiency, apparently without any protest or without making any inquiry as to how the weighing had been done. There is the further evidence that, less than a month later when a further shipment was being made by the same firm, the same mate of the boat, after some words had taken place in regard to the previous shortage, threatened the prisoner who had weighed the previous shipment. At the hearing no officers of the contracting company were called, nor was the prisoner who did the weighing examined. In these circumstances, your Commissioners are of the opinion that the investigation was inefficient and inadequate, and that it is open to the grave suspicion that Inspector Dawson was not trying to make a thorough investigation.

CHAPTER XXV

COLLIN'S BAY PENITENTIARY

The original purpose in the establishment of this institution was to segregate young prisoners from hardened criminals. A perusal of the reports of the former Superintendent of Penitentiaries, W. S. Hughes, shows that recommendations had repeatedly been made by him advocating classification and segregation of inmates in separate institutions. Up to this time the only classification had been within the institutions. His reports for the years 1919, 1920, 1921, 1922, and 1923 deal specifically with this question. In the 1920 report he recommended that:

"At least two new thoroughly up to date institutions should be erected to make this most important and desirable work possible."

His object was to prevent young or first offenders from being housed in the same institutions as recidivists and hardened criminals.

The 1922 report contains the following recommendation:

"The erection of institutions for the segregation of the first offender and young men from the old, hardened criminal and recidivist, is desirable and necessary. The erection of such an institution was begun in 1895, but afterwards abandoned. The opening of such an institution has continually been recommended by all those engaged in the management of penitentiaries. The overcrowded conditions at St. Vincent de Paul and Kingston now make it imperative that something must be done."

In the House of Commons, on May 31, 1926, the then Minister of Justice, Hon. Ernest Lapointe, stated:

"There is another thing which is not made the subject of the resolutions, but to which I am giving a good deal of thought, and that is the possibility of segregating the young convicts who are sentenced for the first time. Under present conditions they are mixed up with the hardened criminals, and that does not give them a chance. If we could find a way to build a special institution, or even two institutions, for the purpose of receiving and keeping these young men, rather than put them with the hardened criminals, I think that would be a good reform to undertake."

Provision was not made for such an institution until 1929. On April 4, 1929, in answer to a question from a Member of Parliament regarding special institutions for young offenders, Hon. Ernest Lapointe replied as follows:

"The Government has, however, under consideration the making of provision at this session for the establishment of special Institutions for the purpose of segregating young prisoners from hardened criminals."

Later, on June 12, 1929, Hon. Ernest Lapointe stated:

"I have always stated that the first step I had in mind so far as prison reform was concerned was to segregate the young offenders in separate institutions. . . . I am receiving communications from organizations interested in penitentiary matters to the effect that the greatest step forward in penal legislation in Canada has been taken this year through our providing in the estimates for the building of two institutions for young offenders. I think that is the one thing which was primarily needed. It is going to cost a good deal of money but we are going to have the institutions and even if I have only that to my credit during my administration of the Department of Justice, I shall be proud of it."

On the same day, the House of Commons passed the following item:

"Penitentiaries—To provide for the purchase of 'preferred class' penitentiary site and to begin erection of buildings, \$150,000."

It was then stated that the site would be in the vicinity of Kingston Penitentiary and that, while it could not be said how much the building would eventually cost, it was suggested that, in addition to the cost of the site, the building might cost \$200,000 or \$300,000.

These particulars show the policy underlying the erection of this institution. The original purpose that this penitentiary was intended to effect has been altogether departed from, and, if the building program now under way is continued, Collin's Bay Penitentiary will be but a more modern duplicate of Kingston Penitentiary. For a number of years this institution was designated a "Preferred Class Penitentiary," and was so referred to in the Branch files. This was a very unfortunate designation, which has been dispensed with in recent years.

Eleven pieces of property totalling 891 acres were purchased at a cost, including incidental charges, of \$110,713.24.

It was originally intended to enclose a space of 1,200 feet by 1,400 feet, but on June 10, 1933, this was changed to 1,000 feet by 1,200 feet. The first plan of the enclosure and the buildings is dated July 1, 1930. It includes a wall with a tower at each corner, and entrance gates at the north-eastern and south-western corners. On September 14, 1932, it was decided to omit the north-eastern gate. Construction was commenced early in 1930. Very irregular and unsatisfactory progress has been made, work being commenced and discontinued on different projects without any clearly defined or expeditious execution of any part of the building program. On March 4, 1932, the Minister of Justice directed that the penitentiary at Collin's Bay should henceforth be called "Collin's Bay Penitentiary."

At first the prisoners from Kingston Penitentiary employed on construction work at Collin's Bay were returned to Kingston Penitentiary in the evenings. There was at that time only a very temporary enclosure.

This situation continued until December 18, 1930, when the first quota of inmates was taken from Kingston Penitentiary to be quartered at Collin's Bay. By March 31, 1931, there were 148 inmates there. This

number has varied from time to time, depending largely upon the number of transfers from Kingston Penitentiary, and for the last several years it has averaged between 175 and 200. In September, 1936, the wooden dormitories used during the previous six years were entirely vacated, and the prisoners were moved into the new cell blocks.

The general plan of construction, dated March 14, 1936, shows the building scheme to be quite similar to that of the Laval Buildings. The administration building is located in the centre of the north wall. A corridor leads back from the administration building to the chapel, library, school, and office, on the right, and the hospital, reception, and chief keeper's office, on the left. Continuing beyond these wings, the corridor passes between two cell blocks, "H" on the right, and "I" on the left. Beyond this pair of wings it meets a cross corridor leading to the kitchen. There is a cell block and three shops on the right, and the laundry, a cell block, and three shops on the left. The boiler house duct leads from cell block "I" to the boundary wall.

The estimated cost of construction, as submitted to your Commissioners on November 23, 1937 by the chief engineer of the Penitentiary Branch, is as follows:

| | |
|---|----------------|
| Total estimated cost of permanent buildings.. . . | \$1,436,680 40 |
| Cost of temporary buildings.. | 69,967 92 |
| Land and other property.. | 110,713 24 |
| <hr/> | |
| Total.. | \$1,617,361 56 |
| <hr/> | |

The above estimate does not include equipment or live stock. Of this amount \$864,527.47 was spent to date of November 23, 1937.

The temporary buildings provided are as follows:

| | |
|-------------------------------------|-----------|
| Dining room.. | \$ 109 62 |
| Store room.. | 1,651 89 |
| Dormitory, 1.. | 5,472 26 |
| Dormitory, 2.. | 5,568 59 |
| Dormitory, 3.. | 4,832 89 |
| Dormitory, 4.. | 5,201 07 |
| Chapel.. | 3,200 98 |
| Hospital.. | 3,132 52 |
| Dining room.. | 5,251 98 |
| Isolation ward.. | 2,236 89 |
| Boiler house, change room.. | 20,521 81 |
| Stone shed.. | 775 41 |
| Carpenter shop.. | 2,511 26 |
| Stone shed.. | 3,732 27 |
| Garage.. | 2,505 11 |
| Blacksmith shop.. | 1,922 37 |
| Paint shop.. | 75 00 |
| Cement store.. | 10 00 |
| Garage store.. | 6 00 |
| Towers.. | 1,250 00 |
| <hr/> | |
| \$69,967 92 | |

According to the Superintendent and chief engineer, it was never intended to build the penitentiary at Collin's Bay without walls. The original intention was to construct two solid walls six feet in height surmounted by a woven wire fence twenty feet high and topped by six lines

of barbed wire. In order to prevent the public seeing into the penitentiary grounds and the prisoners seeing out, it was finally decided to increase the solid wall to eight feet. Plans were prepared on this basis and were approved on April 13, 1932. The estimated cost was \$70,000. During 1932 a portion of the wall and fence was built. In the fall of 1932, however, the warden came to the conclusion that this type of wall would not prove satisfactory, because the eight feet of solid wall cut off the view of Lake Ontario, and the wire could be climbed or cut. He recommended a twenty-five foot solid wall. The chief engineer and the Superintendent agreed with the warden to some extent, but believed that a solid wall of eighteen feet surmounted by ten feet of woven wire would meet the situation. This new plan was approved December 13, 1932 at an additional cost of \$21,000. Before construction was proceeded with on this basis, however, the warden made further representations, and it was finally decided to accept his view. On January 13, 1933, approval was given for the construction of a solid wall twenty-three feet high without any surmounted wire, at an additional expense of \$10,500. This made the total cost of the wall \$101,500. At the present time the north and west walls are completed to the full height, and the south and east walls are partially solid and partially wire. Later, these are to be completed to the full height.

For some reason, which is unknown to the present Superintendent, it was decided to proceed with the construction of the administration building before the cell blocks, boiler house, ducts, and kitchen were built. The estimated completed cost of the administration building is \$200,000 and, in the opinion of your Commissioners, it will be entirely out of proportion to the requirements of Collin's Bay. It is designed on a scale of grandeur that is unnecessary, and which will provide palatial offices quite unsuitable for a penitentiary staff. Plans were approved January 8, 1931, and over half the building had been completed and over half the estimated cost expended when it was decided to discontinue work in order to construct permanent cell accommodation for the prisoners.

Cell block "I" was originally designed as a shop, and was so approved on March 29, 1932, to cost \$50,000. The foundations had been constructed and steel framing was erected to follow the original design when, in 1932, the chief engineer was asked to prepare plans which would permit its conversion into a cell block. The frame work provided a height of approximately seventeen feet to the eaves, which would limit the window heads, and thus the ceilings. On July 1, 1930, a plan had been drawn for two cell blocks with two wings of four tiers of fifty cells each, patterned after the north wing at Kingston Penitentiary. All cells were to be of the outside cell type and were to face Lake Ontario. This plan, however, was deemed to be too expensive. The wardens were opposed to outside cells, but the Superintendent, who had seen them in use in other countries, favoured them, and it was intended that the cell blocks to be built at Collin's Bay would be of the outside cell type. When the chief engineer began preparation of his plans for converting block "T"

into cell blocks, he found that, if outside cells were to be constructed in the partially completed building, there would be a central corridor forty feet in width but only eight feet in height. Accordingly, he recommended that the inside barrier type cells should be used because these would allow the corridor to be seventeen feet high. The conversion had originally been intended to be temporary, but, as plans went forward, it was decided to make it permanent, and some changes, such as the conversion of the two end cells on each range into shower baths, were made. The building is now practically completed and is occupied by prisoners. Only the stone veneer facing on the exterior wall remains to be completed.

Cell block "H" was also intended to be used as a shop but, fortunately, when the conversion into cell blocks was decided upon in 1932, the steel framing and trusses had not been constructed as in cell block "I." As a result, it was possible to raise the floors to ten feet six inches instead of the eight feet eight inches of cell block "I", and to construct outside type cells. The plans were approved on March 14, 1935. The building is now practically completed, and its cost to October 31, 1937 has been \$87,832.57.

The warden's residence was begun before the cell blocks and it was the first building to be completed. The total cost of this building has been \$13,369.84, of which \$12,901.96 had been spent by 1934.

Collin's Bay Penitentiary is still a veritable construction camp. Many of the buildings, such as the two other cell blocks, the school, library, receiving quarters, Protestant and Roman Catholic chapels, the six shops, stores buildings, etc., have not yet been authorized, and no plans have been drawn for them.

The hospital hut, which might be made to look attractive and comfortable, is dirty and unkempt. When visited by one of your Commissioners on November 13, 1937, barrels were found stored in the hall. The keeper's hall and kitchen are very dirty. The steam pipes, although insulated, are in some places three to four feet above the ground, and much heat must be lost. The warden complained that even at that late date he was unable to obtain plans of the proposed buildings.

The above account will give some idea of the lack of organized planning, or even common foresight, exercised in penitentiary construction projects. In order to supply work for the prisoners, the chief engineer is pressed for plans of excavations before the ground floor plans of the buildings to be erected are decided upon. The walls, administration building, and even the warden's residence, were begun before housing or kitchen accommodations were undertaken.

The way in which cell blocks "I" and "H" were changed while under construction has already been described, and the hastening forward of the unnecessarily palatial administration building when cell blocks and offices were needed, has been noted. The entire construction program is illustrative of the haphazard and ill-planned method of operation that has been characteristic of building activities in Canadian penitentiaries.

Your Commissioners are of the opinion that nothing more should be done with respect to the buildings at this institution and that no further construction of the wall should be permitted until this report has received full consideration. It does not appear to your Commissioners that there is anything in the administration of this penitentiary consistent with the ideas that impelled its erection or the principles upon which it was founded. If the present construction program of the buildings and wall is completed the institution will be merely a modern duplicate of its immediate neighbour, Kingston Penitentiary.

Selection of Inmates

The selection of inmates for transfer from Kingston Penitentiary is made, after medical examination, by the warden and deputy wardens of the two institutions. The practice followed has been to reject the following:

1. Prisoners serving terms for murder;
2. Prisoners serving terms for manslaughter, other than in automobile accidents;
3. Prisoners wanted on release by police authorities or for deportation;
4. Prisoners having record of escape and jail break;
5. Prisoners whose prison records show that they are agitators or incorrigibles;
6. Prisoners physically unfit for hard labour;
7. Prisoners who have been retransferred to Kingston Penitentiary from Collin's Bay for reasons other than for medical or surgical treatment.
8. Homosexual perverts.

The fact that an inmate is a recidivist is not a bar to his acceptance at Collin's Bay. Physical fitness is the prime consideration. Your Commissioners were informed that the chaplains are not consulted in regard to these transfers either at Kingston Penitentiary or at Collin's Bay.

Restrictions as to employment of prisoners outside penitentiary walls, as set out in Circular 85/34 and referred to elsewhere in this report, are not insisted upon at Collin's Bay. During April, 1937, the cases of 190 prisoners admitted to Kingston Penitentiary between October 3, 1936 and March 12, 1937 were considered with a view to their transfer to Collin's Bay Penitentiary. Forty-eight were rejected as physically unfit and fifty-five were rejected as not suitable for transfer. Seventy-one were considered physically fit and suitable for immediate transfer, and fourteen were noted for later consideration. The sentences of the remaining two expired the following month. Some of those accepted as suitable were convicted of the graver crimes, and many had numerous previous convictions. One of those so accepted as suitable was forty-nine years of age, with twenty-nine previous convictions, serving a term of two years for breaking and entering. Another was fifty-two years of age, with one previous conviction, and had been sentenced for contributing to juvenile

delinquency. Another was thirty-two years of age, with twelve previous convictions, and was serving a term of three years for breaking, entering, and theft. Another, forty-two years of age, with ten previous convictions, was serving a term of two years for theft. Another, thirty-three years of age, with nine convictions, was serving a term of two years for theft. Another, thirty-nine years of age, with eight previous convictions, was serving a term of two years for theft. Included in the same list of seventy-one, were six prisoners twenty-one years of age and under; one eighteen years of age, with two previous convictions, who was serving two years for house-breaking and theft; one nineteen years of age, with two previous convictions, who was serving a term of five years for armed robbery; one twenty years of age, with no previous convictions, sentenced to five years for public mischief; one nineteen years of age, with five previous convictions, serving a term of two years for house-breaking; one twenty-one years of age, with five previous convictions, serving a term of three years for breaking, entering, and theft, and one of sixteen years of age, with no previous convictions, serving a term of four years for armed robbery.

The remainder included men of all ages, convicted of the usual assortment of serious crimes, only twelve of whom had no previous convictions, and most of whom were recidivists.

The fact is that at no time has Collin's Bay Penitentiary been used as an institution for young offenders or for the more reformable class of prisoners. Physical fitness for hard labour seems to be the first essential in the selection of inmates for transfer to this institution.

It will readily be seen how far the original intention for which Parliament made the original grant in the estimates, and for which presumably money has been voted by Parliament from year to year since, has been departed from with regard to Collin's Bay Penitentiary.

Your Commissioners have seen nothing in Parliamentary records, nor has the Penitentiary Branch been able to show us that Parliament has been informed of this change of policy, and your Commissioners believe that judges, magistrates, and the public generally, are under a misapprehension as to the present practice at Collin's Bay Penitentiary. This was clearly the fact in a recent case which came before the Court of Appeal of Ontario in an appeal lodged on behalf of a young man twenty years of age who had been sentenced to a term of four years. Judgment was reserved for enquiries to be made by the court. The appeal was dismissed, the Chief Justice giving as one of the reasons for judgment that this convicted young offender would be going to Collin's Bay Penitentiary and so would not be with hardened criminals. The court was also given to understand that this young offender, not having committed any crime of violence, would be committed to Collin's Bay shortly after his reception at Kingston. The only inference to be drawn is that if he had committed a crime of violence he would not go to Collin's Bay Penitentiary. The fact is that commission of a crime of violence does not cause rejection.

Warden

The warden at Collin's Bay Penitentiary is Lieutenant-Colonel W. H. Craig. He is qualified as a chartered accountant in Ontario, was managing director and part owner of a wholesale grocery business at Kingston for many years, and he has had municipal and military experience. He was appointed to the position of inspector of penitentiaries in January, 1933, and, on July 1, 1934, was made warden of Collin's Bay Penitentiary. Although his business experience is undoubtedly of some value, he had no previous experience in penal institutions prior to his appointment as inspector.

The general impression your Commissioners received as to the management of this institution was unfavourable. The whole plant has a disorderly appearance. Mention has already been made of the condition of the hospital and the kitchen. The appearance of the guards and the condition of the building used as a keeper's hall indicate that the staff have not been disciplined. Making all allowances for the fact that it is a veritable construction camp and little else, there seems to be no excuse for the lack of organization which appeared to exist. This was largely due, in our opinion, to the easy-going disposition of the warden. His personality and his lack of energy and oversight have prevented his making any real contribution to the administration of the institution.

Lieutenant-Colonel Craig was the senior inspector conducting the investigation into the alleged shooting into the cell of Timothy Buck, which is fully dealt with in chapter VII of this report, and he signed the report which is condemned in that chapter. He also conducted the enquiry into the coal shortage at Kingston Penitentiary, referred to in chapter XXIV of this report, and he signed the report which is criticized in that chapter.

Deputy Warden

The deputy warden had experience for some years as an electrical engineer and contractor in London, England. He came to Canada after the war, in which he gave distinguished service with the Imperial Forces, and entered the penitentiary service in October, 1924. He was acting deputy warden at British Columbia Penitentiary in 1929, and was transferred to Collin's Bay Penitentiary as deputy warden on April 1, 1930.

The deputy warden impressed your Commissioners favourably. He appeared to be efficient in the performance of his duties, a good disciplinarian, and, at the same time, handled the inmates with apparent fairness and justice.

Chief Keeper

The chief keeper was appointed to the penitentiary service as a temporary guard at Kingston Penitentiary in November, 1920, and promoted to keeper on September 1, 1927. In March, 1930, he was transferred to Collin's Bay Penitentiary as acting chief keeper, and on April 1, 1930, his appointment was made permanent.

Your Commissioners received many complaints from inmates and officers as to his use of foul language and abusive treatment. We regret to find that there was sufficient corroboration of these complaints to satisfy us that they were well founded and that this was known to his superior officers.

Transportation

Representations were made to your Commissioners by the officers of this institution that, due to the location of the penitentiary and the lack of living quarters, arrangements had to be made for officers to be conveyed in penitentiary trucks to and from their work. It was stated that the average cost of transportation of individual officers who do not own cars was four or five dollars per month. Officers are required to be on duty at specified times regardless of weather conditions and may be fined for failure to report on time. In the circumstances, your Commissioners believe that this is not an unreasonable arrangement, and that consideration should be given to the provision of suitable transportation.

Your Commissioners are also of the opinion that the staff in this institution is out of proportion to the population; there being between 90 and 100 officers on the staff for an average population of about 200.

Recreation

Your Commissioners were informed that since December, 1936 inmates have been permitted to leave their cells between six and eight p.m., Tuesdays, Thursdays, and Saturdays of each week, and to talk and join in authorized recreation in the corridors of the cell block. We were informed by the warden that the conduct of the prisoners during these periods was exemplary and that this change in treatment appeared to be having favourable results. The chaplains expressed similar opinions.

The following statement, referring to this diversion period, is contained in a letter from the warden to the Superintendent, dated December 13, 1937:

"This mental relaxation has proven, as anticipated, to be of much benefit. No relaxation of discipline or order has been attempted at any diversion period during the thirteen months period the practice has been in effect."

In an accompanying report, the Protestant chaplain states his opinion of the diversion period as follows:

"Since this has been started I have noticed a decided improvement in the temperament of the convicts.... When I visited the prison during the time a period was in progress, I was impressed with the general tone of quietness and the orderly manner in which it was being conducted. I believe it will mean much to promote discipline and the sense of honour and co-operation for the good of both officers and convicts."

It was also stated by the warden that radio equipment was being installed in the two cell blocks and that head phones were to be placed in each cell. The cost of the equipment was to be paid for by a weekly deduction from the "peculium" of each inmate who desired the privilege. The views of your Commissioners on this subject are expressed in another chapter of this report.¹

Bathing

The installation of two showers on each range of cubicles in the new cell blocks permits each inmate to have three baths per week. Prisoners are shaved twice a week instead of once.

Education: Library and School

The library, as of February 23, 1937, consisted of 3,767 books and magazines. On the whole, these appear to be in good condition and the library well kept and adequately catalogued.

The school was disappointing in every respect. With nearly 200 inmates on the register, the enrolment was only twenty-one, and the average actual school attendance from eight to ten, or approximately five per cent of the total prison population. The teacher stated that the reason for this was the pressing need for construction, and the warden informed us that if penitentiary school regulations were observed they would not have sufficient work gangs for construction work and that as a result this would be disorganized. His attitude is characteristic, and it is much to be regretted that eight years after its establishment the situation generally in this institution should be such as it is. The teacher-librarian had one inmate assistant until February, 1937. At the time of your Commissioners' visit there were two.

¹ Chapter VIII.

CHAPTER XXVI

WOMEN'S PRISON

All women sentenced to serve terms of two years or over or to life imprisonment are incarcerated in the Women's Prison at Kingston. Until 1910, female prisoners at Kingston Penitentiary were incarcerated in a ward for females that formed a part of what is now the north wing of the penitentiary. In that year, a separate block was opened with accommodation for thirty-four female prisoners. This was occupied by females until January 24, 1934, when all women prisoners were transferred to the present Women's Prison, which has accommodation for 100 female prisoners.

The south wing at Dorchester Penitentiary had contained a ward for female prisoners until June 6, 1923, when the two staff matrons and the three prisoners confined there were transferred to the Women's Prison at Kingston. Manitoba, British Columbia, and St. Vincent de Paul Penitentiaries have not been provided with accommodation for the reception of female prisoners. So far as the records disclose, no females have been received at any of these penitentiaries. Saskatchewan Penitentiary has a room set aside for the accommodation of female prisoners and temporary matrons. Female prisoners may be held there pending their transfer to Kingston.

Construction

The construction of a new Women's Prison was commenced in May, 1925. It was located adjacent to, but outside the walls of, Kingston Penitentiary. The building was occupied by the female prisoners for the first time on January 24, 1934. Construction of this building has been characterized, not only by delays, but by quite unnecessary structural changes and alterations that have added greatly to the cost.

The cost of the building, including material, labour, and departmental charges, amounted to \$373,781.15. Your Commissioners were informed by the accountant of the Penitentiary Branch that it is impossible to figure the extra cost occasioned by alterations after the original plans were completed.

The wall of this prison is sixteen feet high, and is surrounded by ten feet of woven wire fabric supported on galvanized iron pipe posts; the whole twenty-six feet being topped with six lines of barbed wire and electric lights placed at intervals of approximately 100 feet. No towers for mounting guards were provided, and this is given as the reason for surmounting the wall with fencing. The cost of this boundary wall was charged to a separate account, and amounted to \$84,876.67. This included the cost of material and labour. The total length of the wall is approximately 2,280 feet. The cost is, therefore, approximately \$20 per foot for materials alone, an expenditure wholly unwarranted for an institution of this character.

The cost for the maximum accommodation of 100 prisoners would be roughly \$4,585 for each inmate. If an average of forty is taken, this figure being in excess of the average for the past ten years, the capital cost per inmate would be about \$11,465.

Population

The average daily population of this prison during the past ten years has been as follows:

| | | | |
|----------------|----|----------------|----|
| 1928.. | 39 | 1933.. | 46 |
| 1929.. | 34 | 1934.. | 34 |
| 1930.. | 37 | 1935.. | 31 |
| 1931.. | 47 | 1936.. | 26 |
| 1932.. | 51 | 1937.. | 29 |

The average daily population for the ten years 1928/1937 has been approximately 37.

It will be seen that the largest number of inmates in this prison in the past ten years was in 1932, when there were 51, and the lowest 26 in 1936.

The following tabulation shows the female receptions at this prison, and the provinces in which these females were convicted, for the five years ended March 31, 1937:

| Year | P.E.I. | N.S. | N.B. | P.Q. | Ont. | Man. | Sask. | Alta. | B.C. | Total |
|--------------------|--------|------|------|------|------|------|-------|-------|------|-------|
| 1933..... | | 2 | 2 | 1 | 6 | 1 | ... | 2 | 4 | 18 |
| 1934..... | | | 1 | 4 | 5 | 1 | 1 | 1 | | 13 |
| 1935..... | | 2 | | 9 | 3 | | | | 1 | 15 |
| 1936..... | | | 1 | 2 | 4 | | 1 | | 1 | 9 |
| 1937..... | | 1 | | 3 | 6 | 1 | | 1 | | 12 |
| Five year total... | Nil | 5 | 4 | 19 | 24 | 3 | 2 | 4 | 6 | 67 |

The receptions for the past five years have averaged about 13.

When your Commissioners inspected this institution in March, 1937, the number of inmates was 27. Of these, 15 had no previous convictions, and only a very few could be termed recidivists. No trouble seems to be experienced in the discipline of the inmates. Their work consists almost entirely of looking after the institution itself, in cleaning the kitchen and sewing.

Cost of Operation

The cost of operating this prison for the fiscal year ended March 31, 1937 could not be ascertained in actual figures because of some items being included in the costs of Kingston Penitentiary. The figures furnished by the Superintendent, using his estimates where necessary, are as follows:

| | |
|------------------------------------|-------------|
| Staff and administration.. | \$ 8,873 41 |
| Maintenance of prisoners.. | 4,360 42 |
| Discharge expenses.. | 280 46 |
| Operating expenses.. | 8,530 24 |
| Maintenance expenses.. | 390 97 |
| Total.. | \$22,435 50 |

Thus, for the past several years, the average cost of operation per inmate in this prison has been approximately \$750, to which should be added transportation costs and money furnished on discharge.

Transportation Costs

The cost of transporting women prisoners to Kingston from other penitentiaries, from June 6, 1923 to November 30, 1937, is as follows:

| From penitentiary at | Number of prisoners transferred | Cost |
|--------------------------|---------------------------------|--------------|
| British Colombia..... | 13 | \$ 8,867 57 |
| Saskatchewan..... | 22 | 9,540 73 |
| Manitoba..... | 15 | 3,739 05 |
| St. Vincent de Paul..... | 57 | 2,450 83 |
| Dorchester..... | 36 | 7,165 29 |
| Totals..... | 143 | \$ 31,763 47 |

The number of female prisoners released from the prison during the same period, together with transportation costs and amounts of money furnished on discharge, are as follows:

| Number of prisoners discharged | Transportation furnished | Cash furnished |
|--------------------------------|--------------------------|----------------|
| 205..... | \$ 4,153 72 | \$ 2,811 15 |

Total transportation cost during the above period was \$35,917.19, not including extra cash furnished on discharge to those proceeding to distant destinations.

Buildings and Grounds

The prisoners are all confined in barrier cells with no outside windows. This is a very unnecessary form of construction for an institution for women prisoners.

Your Commissioners found the grounds enclosed by the boundary wall of this institution in a disgraceful condition, practically as they had been during construction. The surface was rough and infested with weeds. None of the ground had ever been graded. There were practically no trees, shrubs, flowers, or vegetables. In this respect the Women's Prison presents a marked contrast to any other institution your Commissioners visited anywhere in this or any other country, whether for men, women, or children. It is inferior even to the grounds inside the walls of Kingston Penitentiary. The report of the Superintendent of Penitentiaries for the year ended March 31, 1933 stated, in relation to the *former* female prison, that "very satisfactory results were produced from the small vegetable garden within the enclosure. The flower beds were satisfactorily cared for, and offered considerable relief and diversion to the female convicts." No satisfactory reason has been assigned for the condition of the grounds of the *new* Women's Prison.

This institution has not been inspected since its first year of occupancy. There is no recreation ground within the enclosure, not even a cinder or board walk, and no provision for outdoor exercise or recreation of any kind. Your Commissioners were informed that the open lawn space on the street in front of this building was only sodded in the summer of 1936.

The building itself was found to be scrupulously clean and well cared for. The cells were all clean, neat, tidy, and well arranged. The kitchen, laundry, and sewing-room were all clean and apparently well kept and well managed. Your Commissioners considered that the condition of the switch-board in the laundry was dangerous because not properly guarded. This was drawn to the attention of the warden during our inspection in April, 1937. We understand that subsequently alterations were approved so that all exposed parts would be protected by a surrounding cage and switches would in future be operated by insulated extension handles. Instructions to have the work done were issued in August, 1937. The latest information your Commissioners received was that the work would be completed in February, 1938. Apart from the fact that it was necessary for your Commissioners to bring the matter of this obvious protection to the attention of the warden, it is a striking commentary on the existing system that a matter of this kind should require over six months to remedy.

Staff

The management of this prison is part of the duty of the warden of Kingston Penitentiary. The doctor and the two chaplains of Kingston Penitentiary perform their respective duties for the Women's Prison as well. In addition to these, the staff consists of six matrons.

Education and Censorship

There is no school and no teacher for the female prisoners. This condition seems to differ from the conditions which prevailed when the prison was located in the enclosure of Kingston Penitentiary. The report for 1933, already referred to, states:

"School classes were held during the noon hour under the supervision of the Matron who is a qualified school-teacher, the Penitentiary teacher arranging special matters to be taught, correcting all papers, etc. Sixteen females attended the classes."

The "library" is contained in a small book-case, and consists of about 100 books. Apparently these books are drawn as requested from the library at Kingston Penitentiary.

It would appear that the correspondence of female prisoners is censored in the Women's Prison and again by the male censor at Kingston Penitentiary. This duplication would appear to be unnecessary.

Recommendations

Your Commissioners are strongly of the opinion that the number of female prisoners confined in Kingston Penitentiary did not justify the erection of the new Women's Prison and that its further continuance is unjustified, particularly if arrangements can be made with the provincial authorities to provide custody and maintenance for such prisoners in their respective provinces. Enquiries in the various provinces lead us to believe that there would be no great difficulty in making such arrangements. This would have the advantage of eliminating the expense of transporting prisoners from eastern and western provinces. At present the female prisoners brought from a distance seldom see any relative during the period of their incarceration. There are no compensating advantages, but only the heavy operating expense already referred to. Until arrangements can be completed with the provincial authorities, your Commissioners recommend:

- (1) That the grounds inside the wall be ploughed and graded and generally improved, provision being made for trees, shrubs, flowers, and vegetables;
- (2) That provision be made for suitable outdoor exercise and recreation, and that some walks be built at once;
- (3) That inside recreational facilities be improved;
- (4) That suitable educational facilities, including appropriate vocational instruction, be provided.

Your Commissioners are of the opinion that this building could be utilized in carrying out the recommendations made elsewhere in this report regarding the better classification of prisoners.

CHAPTER XXVII

MANITOBA PENITENTIARY

Buildings and Grounds

The building program in progress at this penitentiary appears to be incoherent and without definite plan. As in other places, the motive seems to be to provide employment for prisoners rather than a co-ordinated scheme of prison development.

The present plans involve the conversion of certain old cell blocks into new cell blocks, which is commendable, the completion of the administration building, which will be accomplished in about eighteen months, and the extension of the boundaries to enlarge the area within the walls from eleven acres to twenty-four acres. The boundary wall has been partially constructed and has already commenced to crack in such a manner as to indicate very defective construction. We are of the opinion that the work should be stopped and the whole plan reconsidered. A considerable sum of money has already been wasted on this project.

The accommodation for the staff is inadequate. It is unreasonable and unnecessarily humiliating to ask the members of the staff to live under the conditions that now exist in the officers' tenements belonging to the institution. These houses were built fifty years ago; they are without sanitary conveniences, and prisoners themselves are much more comfortably housed in their cells than the officers in the penitentiary tenements.

Your Commissioners are of the opinion that this state of affairs is destructive of the morale of the officers and that immediate steps should be taken to provide the staff and their families with respectable accommodation. In a large metropolitan centre the homes which are provided for the staff would, indeed, be condemned by the medical authorities.

General Discipline

Discipline at this institution appears to be lax. This, however, may be accounted for by the fact that both the office of warden and deputy warden are now vacant, and have been for some considerable time.

Warden and Deputy Warden

These offices are both vacant and, in the opinion of your Commissioners, should not be filled until the Prison Commission has had an opportunity of giving the matter full consideration. Your Commissioners have some doubt as to the ability of the present acting officers to fill the positions they now occupy.

Young Offenders

The young prisoners have been segregated at Manitoba Penitentiary, but, apart from this segregation, they have received no special attention. When the order to segregate the young prisoners was received at the penitentiary, those who were employed in the shops and receiving some measure of trade instruction were taken out of the shops and assigned to the most menial tasks in the institution, i.e., excavating and scavenging. This naturally has created great resentment among the young prisoners. It is the opinion of the officials at the penitentiary that such a system of treatment for young offenders is no improvement upon that which prevailed before the change.

Classification

The classification board in this penitentiary has made an attempt to function pursuant to the relevant regulations, but, as in other penitentiaries, very few records have been kept. The information prepared by the Protestant chaplain has been of assistance to the board, but the limitation of opportunities for industrial work in the institution makes it difficult for the management to accomplish the results to be expected from classification.

Kitchen and Steward

The food at Manitoba Penitentiary, as at the other penitentiaries, is of excellent quality, and its preparation is above the average to be found elsewhere. The kitchen is clean and well managed. The store room and cutting room are clean and orderly and the refrigerator room well kept. The steward appears to be competent.

Hospital and Medical Service

Adequate medical services are provided at Manitoba Penitentiary, and the hospital is new and complete, but it appears that the building for the new hospital was developed with little knowledge of the requirements of the institution.

The present building was constructed as a school room and chapel, but, after the building was nearly completed, it was decided to convert the lower storey into a hospital. The medical officer of the institution was not consulted about the plans for this conversion, and the hospital rooms that have been provided make it difficult to supervise the inmates while they are confined to their rooms. The windows are small and high and, as was stated to the Commission, a sick prisoner is virtually placed in solitary confinement by reason of the architectural characteristics of the hospital. Although this is the newest and most up-to-date hospital in the penitentiary service, your Commissioners have not seen an institutional hospital in any country they have visited which possesses these peculiar characteristics. Nineteen months were spent in the construction

of this building, which consists only of the Roman Catholic chapel and the hospital. There is no reason why a well planned modern building should not have been constructed.

The equipment of the hospital is satisfactory. It is necessary to have such a well-equipped operating room at this institution because, during the winter season, emergency cases cannot be removed from the institution.

The method of holding sick parades is unsatisfactory. They are held at seven o'clock in the morning, and the inmates are merely paraded past the doctor, with permission being given to those who wish to consult him to drop out. This means that it is necessary for the doctor to view a line of prisoners being paraded past him each morning, which is an unnecessary procedure both for the prisoners and the doctor.

Chaplains and Religious Services

Of the 273 prisoners in the penitentiary at the end of the year 1935-36, 109 were recorded as Roman Catholics, eleven as Hebrews, and 153 as Protestants.

The Protestant chaplain takes a diligent interest in his duties. He makes an effort to become personally acquainted with each of the Protestant prisoners in the institution, and he prepares a memorandum of the information he thus acquires for the use of the classification board, which is somewhat similar to the memoranda prepared by the deputy warden at British Columbia Penitentiary. He lives near the institution and devotes his full time to the service of Protestant inmates. He is performing an earnest and commendable service.

The Roman Catholic chaplain serves only on a part-time basis although he is paid a full-time salary. In addition to his duties as chaplain of the penitentiary he performs similar services at other institutions in the city of Winnipeg and as a teacher in one of the colleges. He realizes that this arrangement is unsatisfactory and that it impairs the services he might otherwise be able to give to the prisoners at the penitentiary. He believes that there is sufficient work to be done by the Roman Catholic chaplain to justify his full-time services. In view of the fact that his salary is being paid on that basis, your Commissioners recommend that steps should immediately be taken to ensure this. It is only fair to this officer to state that he does not retain his whole salary for his own use, but remits a substantial portion to the general funds of the diocese.

Education: School, Library, and Teacher-Librarian

Inmates at Manitoba Penitentiary are not given schooling beyond the eighth grade. The teacher, who is also librarian, has been teaching inmates in their cells in the evenings, and he believes that instruction should be supplied to the more advanced pupils. He is also in favour of co-ordinating school and vocational training to a common end. He

teaches French to English youths, and English to French youths, in addition to mathematics, mechanical drawing, and other subjects not on the regular school agenda. He states that over half his pupils are prepared to study in their cells if supplied with technical magazines, etc. Compulsory education of illiterates is not enforced.

Books and magazines are censored on the basis of crime, sex, immorality, etc. There are an insufficient number of magazines, particularly of the technical kind. They are issued to inmates in numerical order according to the length of time served in the institution. Your Commissioners do not approve of the present method of issuing books and magazines, which are often held three and four months before issuance to the inmates. It is reported that the library has practically fallen into disuse because of the lack of new books, for which there is no definite appropriation. Purchases of new books had fallen from 500 per year to 152. The allowance for magazines is seventy-five cents per capita per year. It appears to your Commissioners that the library service at this institution is in need of complete overhauling to render it satisfactory.

CHAPTER XXVIII

SASKATCHEWAN PENITENTIARY

Buildings and Grounds

The site of Saskatchewan Penitentiary is decidedly advantageous from an institutional point of view and it is convenient to the city of Prince Albert. Connected with the institution is a large tract of land possessing great possibilities of useful development. The buildings, as completed, have been well constructed and are reasonably modern in detail. The cell blocks have been constructed to house a much larger population than is at present confined in the institution, and new workshops and other facilities are constructed to accommodate this maximum population.

Complaints were made to your Commission regarding the heating and lighting systems of the institution, which apparently require complete overhauling. The electric wiring is particularly unsatisfactory. The wires are so small and the circuits so long that it is impossible to obtain more than about fifty per cent illumination from the bulbs. It appears that better results cannot be obtained without complete re-wiring. This was agreed upon in November, 1935, but no start had been made by the early summer of 1937. Meanwhile twenty-five-watt lamps are supplied. These are only fifty per cent efficient. It is no wonder that your Commissioners received so many complaints in regard to the effect of the lighting system on the eyes of the prisoners. It is a commentary on penitentiary construction methods that this institution, which is of modern construction, should be the most deficient in respect to lighting of any penitentiary in the Dominion. This quite unnecessary deficiency should be corrected without delay.

The heating system was not properly installed, and alterations have had to be made to the boilers in order to permit regulation of the heat in the institution.

In 1930, plans were made for the construction of a new boiler room and laundry shop, and for completing the new buildings to accommodate the shops already in existence. These latter were cement work, carpentering, tailor, shoe, blacksmith, garage, and tin and paint shops. The boiler room and laundry are now completed, and the work on the wings to accommodate the other shops was commenced in 1932. The cost was estimated at that time at \$200,000, but a further sum of \$25,000 may now be added to this to cover the increase in the cost of materials. The present plan is to complete building the shop accommodation before other construction is commenced. It is estimated that the part at present under construction, which is now about thirty per cent completed, will cost about half the above sum.

Upon the completion of these shops, it is planned to vacate the old ones, which are not of fire-proof construction, but your Commissioners

are of the opinion that they ought not to be discarded. Steps should be taken, instead, to equip them so that they may form a useful unit in a more co-ordinated scheme of management in the penitentiary.

General Discipline

The discipline in this penitentiary is poor. The guards do not appear to respect the senior officers, and the attitude of the senior officers toward the guards does not appear to merit respect. The effect on the prison population is bad. The whole institution seems to be seething with distrust and intrigue. Members of the staff appear to believe that they are constantly being spied upon, both by their associates on the staff and by the prisoners, and that senior officers are willing to accept the stories that are told by prisoners about them. The prisoners are convinced that a system of espionage exists among them, and that certain prisoners are rewarded for bearing tales to the senior officers and that they are punished as a result of such information. The deputy warden admitted that he had received tales from prisoners and had accepted them, but he contended that it was his duty to do so. The warden also admitted that in certain instances he took action against prisoners on the strength of information conveyed to him by other prisoners. An example of this is given, as follows:

In May, 1935, a prisoner asked to be changed from the gang in which he had been placed because he anticipated trouble and did not wish to be involved in it. Other prisoner "stool pigeons" also reported that trouble was imminent, and officers discovered that notes were being passed. As a result of this information the warden ordered segregation of those who might be expected to be involved in the disturbance. The selection of these men he left to the deputy warden. The deputy warden when questioned on the subject of "stool pigeons" stated that, although all information from prisoners could not be relied upon, the information of certain ones could be accepted with confidence. He admitted that he depended to a certain extent upon such information. In selecting the inmates who were to be segregated to prevent the predicted riot the deputy warden did not attempt to secure the notes which were being passed and which might have given proof of the implication of certain inmates, but relied, instead, upon the names submitted to him by inmate informers. The warden when questioned about the matter stated that he did not ask the deputy warden how he secured the information on which the men had been selected for segregation, but that he presumed that they had been selected because they were either known agitators or because of some information received by the deputy warden. In any case, the warden approved of the steps taken by the deputy warden and left the details entirely to him. As a result of this information a number of inmates were removed from their cells and placed in segregation. This was done without any trial, without any questioning of the men, or any attempt to discover if they were implicated. The warden stated that he did not regard this as any injustice to the men involved because he did not consider that he was

punishing them. He admitted, however, that the inmates thus segregated might regard the matter in a different light.

While information received gratuitously from inmates should never be entirely disregarded by the penitentiary management, your Commissioners cannot too strongly condemn any system of regular espionage by chosen informers. The effect of such a system of espionage destroys reformatory influences, causes hatred and distrust, permits favoritism and injustice in the treatment of inmates, fosters laxity on the part of the staff, and is antipathetic to the basic ideal of British justice.

It was also admitted by the deputy warden that he received reports from the inmates about his officers, although he denied that there were informers among the officers as well. The insidious spread of distrust among members of the staff can well be understood in the light of such admissions. Its effect is subversive to all good discipline, to *esprit de corps*, and to the reformation of the inmates.

The unfortunate effect of permitting members of the staff to retain contraband articles taken from the inmates was evident at Saskatchewan Penitentiary. The undesirable effect was further heightened by the selection of one man, the physical training instructor, to make all searches. It made him particularly disliked by the inmates, and charges were made concerning him by most of the inmates who appeared before the Commission. The information of inmate informers was made use of to indicate when certain men might most profitably be searched.

The method of enforcing the rule forbidding the pursuit of hobbies in the cells was highly objectionable. Charges were made that officers would often overlook the manufacture of little articles in the cell until they were completed, when the articles would be confiscated. In connection with the practice of removing the cellophane wrapping from tobacco before it was issued to the inmates, the warden stated that this had been done because the inmates made picture frames from the cellophane and the officers sold such frames in the city of Prince Albert.

It was reported to your Commission that the staff were terrorized, that trafficking was prevalent, and that members of the staff were afraid to discuss these conditions because they could not trust each other. Strong representations were made by members of the staff in favour of some means by which they could present their grievances to some higher authority than the warden, who was opposed to meetings or discussions by the officers. It was stated that they were prevented from making collective representations and that, if an individual officer made any representation, he was singled out as an agitator. This attitude of the warden was evidenced in connection with representations being made to your Commissioners.

If this prison is to function efficiently it will be necessary for strong action to be taken, not only to restore discipline, but to restore confidence and respect both in the staff and the prison population.

Complaints were made that officers were punished by being kept for periods as long as eighteen months on tower duty. This action is inexcus-

able. If an officer is not fit to do his regular tour of duty in the institution he should be discharged, but not be detailed to spend month after month confined for his hours of duty in a tower. Some of the officers stated that their confinement was nearly as bad as that of the prisoners. With this we are inclined to agree. This action is destructive of the morale of the staff and must have an effect on the prison population.

Industries

The "industries" carried on at present at Saskatchewan Penitentiary cannot rightly be termed industries; they are rather services to the penitentiary. Certain equipment necessary to the institution is fabricated and repairs required to be made are done from a point of view of service to the institution. These are necessary, but, considered as training for the prisoners with a view to rehabilitation, they are of little, if any, value.

The Farm

This penitentiary has connected with it a farm consisting of approximately 1,600 acres. During the year 1935-36 only 828 acres were placed under cultivation, as follows:

| | | | |
|--------------------|----------|--------------------------|----------|
| Wheat.. . . . | 60 acres | Hungarian millet.. . . . | 60 acres |
| Oats.. . . . | 221 " | Hay.. . . . | 174 " |
| Peas.. . . . | 7 " | Potatoes.. . . . | 65 " |
| Barley.. . . . | 116 " | Garden.. . . . | 47½ " |
| Buckwheat.. . . . | 10 " | Horse pasture.. . . . | 20 " |
| Green feed.. . . . | 25 " | Hog pasture.. . . . | 11¾ " |
| Flax.. . . . | 6 " | Summer fallow.. . . . | 52½ " |

A full report on the farm is contained in appendix II to this report.

Recreation

The only forms of recreation provided are physical exercises, volley ball, and horse-shoe pitching. The physical training instructor admits that the prisoners regard him as the most disliked officer in the institution because he is assigned all searching and confiscating duty. Putting prisoners through physical drill is not an easy task, and if they are to derive the maximum benefit from it, the physical training instructor must have abundant tact and ability. Your Commissioners are doubtful if the present officer is qualified in this regard.

Young Offenders

The young offenders have been segregated in a cell block, which is partitioned off from the other cell blocks and where no contact is permitted between the young prisoners and other inmates in the institution. There are two tiers in the cell block for the young prisoners, and two classes (A-1, and A-2) have been established.

Grade A-1 prisoners are permitted greater privileges than those of grade A-2. Their cells are on the lower tier in the cell block and they are permitted to eat in association in the corridor in front of their cells. In the evening they are permitted certain games, in the nature of supervised

gymnastics in this corridor, and an effort has been made to provide them with some educational training. One of the guards in charge is a university graduate and has taken a particular interest in the education of these young men.

In establishing two grades it was hoped that those in grade A-2 would seek to be promoted to grade A-1 and would by their good conduct earn that reward, while those in grade A-1 would seek to observe good conduct to keep from being demoted to grade A-2. Unfortunately this arrangement has not been a success.

The A-2 class inmates are kept in their cells in the evening and watch the A-1 class enjoying their special privileges in the corridor below. The result has been to stir up an intense feeling of jealousy, bitterness, and resentment, which has grown to such an extent that, in prison parlance, the members of grade A-2 class are regarded as "the big shots," and their attitude is that it would be a reflection on their maturity in crime to be recipients of the special privileges enjoyed by those of grade A-1 below.

While the grade idea has no doubt been successful in England, it cannot be carried out when there are only two grades and these are in daily contact with one another. The situation in Saskatchewan Penitentiary is highly unsatisfactory, and prisoners and guards alike are agreed that the antagonism which exists between the grades is destructive of reformatory influences.

No interesting or beneficial work is provided for these two classes of young prisoners and there is not opportunity for them to learn a trade. The employment that is provided is mostly of a monotonous labouring type, which does not, in any sense, train them or give them increased qualifications for earning a living after their discharge.

One of the officers who appeared before your Commission stated that under the present circumstances it was almost impossible to keep these youths from the influence of adult inmates and that there was no opportunity to put them into suitable employment. The work in which they have been engaged is shovelling coal and snow—a miserable task. This officer was also of the opinion that the classification between A-1 and A-2 in the same cell block is unsatisfactory.

It appears that, notwithstanding all the difficulties encountered in making the experiment, the segregation has been of some benefit, but it has not accomplished the desired results.

Classification

The classification board at Saskatchewan Penitentiary has made an anaemic and unsatisfactory attempt to perform its duties. The medical officer, who is one of the most important members of the board, had only attended a meeting of the board on one occasion since his appointment in 1936, and on that occasion for the purpose of being instructed as to procedure at such meetings. The medical officer stated that he had been excused by the warden and had received no further notice to attend

meetings of the board. The warden admitted that he had "tacitly" excused the doctor from attendance. It was stated that the previous medical officer had only attended three meetings of the board.

No proper record of the meetings of the classification board was kept. Certain forms were filled out relating to various characteristics of the inmates, but these were in code, i.e., A-1; 2.4; x; y; z, which is unintelligible to anyone investigating the history of a prisoner and valueless as a case history sheet. The regulations call for a reclassification of the prisoners during the sixth month of their confinement. No effort is made to observe this rule at Saskatchewan Penitentiary, and, when the warden was asked why it was not observed, he stated, "Because we have not had the employment, and the adult classification board is a farce."

For a short time some attempt was made to institute what the warden called "a personality analysis of the prisoners," but this was shortly discontinued. According to the regulations, the proceedings of the classification board should be made available to the Remission Officer, but the warden stated that the Remission Officer had never asked to see them. It is doubtful indeed if such records as have been kept at this institution would have been of any value to him even if he asked to see them.

Kitchen and Steward

The food supplied at Saskatchewan Penitentiary, as at other Canadian penitentiaries, is of good quality and, if it were properly prepared, would provide quite satisfactorily for the inmates. The kitchen and offices connected with it, however, were found to be unsatisfactory, and dishes were improperly washed, having a greasy coating that showed a lack of ordinary cleanliness. The kitchen is about to be moved to new quarters. These should provide more suitable facilities.

Many complaints were made to the Commission that mouse droppings had been found in the food. As a consequence of these complaints, a member of the Commission, accompanied by one of the secretaries, visited the store rooms. It was discovered that a bag of oatmeal had a large hole chewed in the side of it, and it was evident that mice had constant access to the supplies. Salt bags were literally covered with mouse droppings and, in the refrigerator or cold storage room where butter and flour were stored, a bag of flour had a hole three or four inches in width chewed in it, and there was abundant evidence of the constant access of mice. The state of these storage quarters was disgusting. The mice had made a hole in the lower part of the door jamb, their presence was quite obvious, and yet no one had shown the interest or initiative to close the hole that gave the mice access to the food. Your Commissioners can find no justification for this carelessness and neglect of duty. There is cement and tin available to ensure mouse-proof storage and, while the steward is subject to censure, the warden must bear the final responsibility. It is inconceivable that this situation would be tolerated in a well-managed institution.

Hospital, Doctor, and Medical Services

The hospital accommodation provided at Saskatchewan Penitentiary is elaborate, expensive, and unsatisfactory. Security is carried to the extreme. All patients are provided with cells. This appears to be unnecessary in such a comparatively modern institution. Your Commissioners are of the opinion that arrangements should be made for some ward accommodation in the hospital wing at this institution which would provide more cheerful surroundings without seriously affecting the custodial care.

Tubercular patients are not receiving proper attention at Saskatchewan Penitentiary. While your Commissioners were sitting in the institution two of these patients presented a pitiable spectacle. They lay helplessly in the corridor adjacent to their cells, and one of them died while the Commission was at the penitentiary. There are no proper facilities for treating serious cases of this kind and they should be removed to some other type of institution. The hospital attendant complained that he was not provided with the right type of inmates to act as cleaners, and that the inmates sent to him for this cleaning had no idea of the cleanliness required in a hospital, being more suitable for work on the farm. This is a condition that could easily be remedied by the exercise of a little judgment.

Chaplains and Religious Services

The Protestant chaplain joined the staff of Saskatchewan Penitentiary on the 3rd of May, 1935 on a full-time basis.

It is his custom to spend the noon hour at the institution, to attend choir practice once a week, and to conduct service each Sunday in the Protestant chapel. In addition to the regular service he conducts a bible class on Sunday afternoon that is attended by about twenty-five prisoners. On Tuesday evenings he teaches young prisoners mathematics and geography.

The last annual report shows that, of a total population of 345, 123 were recorded as Roman Catholics, 217 as of Protestant denominations, four atheists, and two Jewish. The normal attendance at Protestant chapel is stated to be about 125. It appears that a large number of prisoners have asked to be excused from attendance at chapel on the grounds that they cannot conscientiously attend either the Protestant or Roman Catholic service. The chaplain is of the opinion that it would be more satisfactory to have voluntary service rather than to ask those who do not desire to attend services to make this declaration.

The chaplain does not visit the prisoners in their cells, nor does he appear to spend any time moving about the institution, but rather prefers to have prisoners "paraded" before him for interviews. Your Commissioners do not think that this is an effective way to gain the confidence or respect of the inmates, and are of the opinion that the Protestant chaplain does not devote sufficient time to his duties.

The Roman Catholic chaplain has had considerable experience in the penitentiary service. He was first engaged as chaplain in 1924, and, after an absence of a few years, returned again in 1934.

He conducts services on Sundays and at the noon hour during week days and attends at choir practice. He does not move about the institution or visit the men in their cells or at their work. As in the case of the Protestant chaplain, your Commissioners are of the opinion that much more time should be devoted to his duties at the penitentiary.

The Catholic population is only about half that of the Protestant population, but, at the same time, there are many services which ought to be performed by the Catholic chaplain to which he is not devoting sufficient attention.

Education: School, Library, Teacher and Librarian

The school teacher is also the librarian. His hours of duty are from 7.30 a.m. until the evening closing of the prison, except on Saturdays when his duties terminate at noon. Insufficient accommodation is provided in the school room, and an overflow class is being held in the chapel.

The accoustics of the school room are extremely poor. It is difficult for the pupils and the teacher to hear one another. One of your Commissioners made a test of this and found that acoustic properties seriously interfered with educational instruction. Ventilation in the school room is also bad, and there are inside storm windows on both windows that are never removed. The heating system should be so adjusted that it would be unnecessary to raise the temperature of the whole building when a higher temperature is required in one room.

The school master is assisted by two inmate monitors who appeared to be competent and efficient. In addition to his duties as teacher and supervisor of his assistants in the school, the teacher must also act as librarian. He is also called upon to supervise the work of ten prisoners who are employed as bookbinders, and who repair and renovate damaged books. Repairs are also made to books from the Prince Albert city library. The teacher-librarian is compelled to devote about sixty-five hours a month to taking stock of the school and library equipment. He is called upon to inspect books and manuscripts that are delivered to the institution, interview new-comers into the penitentiary with a view of determining their educational necessities, and supervise their reading. He is a member of the classification board, and should perform an important duty as such. He is also charged with keeping a record of all private subscriptions of magazines and books to the library. It is quite evident that the multitudinous duties required to be performed by this officer cannot efficiently be carried out by one man.

Warden

Lt.-Col. W. H. Cooper was first taken into the penitentiary service in August, 1920, as a temporary guard at St. Vincent de Paul Penitentiary. In the same month he was appointed to the permanent service, and, in

October, promoted assistant to the warden. On the same date he was transferred and permanently appointed warden of Manitoba Penitentiary. On September 1, 1923, he was transferred to the position of warden at British Columbia Penitentiary. On February 17, 1928, he was retired to promote efficiency and harmony, and was paid a gratuity of \$1,484.47.

This officer's retirement followed a lengthy investigation by one of the inspectors. A report was made by the inspector, and the Minister of the day concurred in the conclusion of the report and directed that the necessary steps be taken for his retirement.

In January, 1932, the wardenship of the British Columbia Penitentiary became vacant and the position was advertised in the usual way. On January 25, a letter was received by the Department from the Secretary of the Civil Service Commission requesting information as to whether the position could not be filled by promotion within the Department. The Department's reply to the letter does not appear on the files of the Penitentiary Branch. No action appears to have been taken until May, 1932, when the Department advised the Secretary of the Civil Service Commission, that, if Lt.-Col. Cooper was found to be the successful candidate in the competition, the Department would not object to his appointment because of anything concerning his previous employment in the service.

On May 18, the Secretary of the Civil Service Commission wrote a letter to the Department asking to know the reason why Lt.-Col. Cooper had been retired from the service. The Secretary was advised that he had been retired under section 32, paragraph 3 of the Penitentiary Act. It does not appear that he was advised of the reasons.

On May 30, Lt.-Col. Cooper was appointed permanent warden of the British Columbia Penitentiary. In February, 1935, he was transferred to the same position in Saskatchewan Penitentiary. The serious conditions indicated elsewhere in this report that exist at Saskatchewan Penitentiary are, in a large measure, due to the mismanagement of the warden.

He does not appear to be able to command the respect of either the officers or the prisoners; he carries petty militarism to the extreme, and he appears to be constitutionally unfitted for the office he occupies. He is arrogant and over-bearing in his manner toward the members of his staff and yet inefficient in his administration of the institution.

Having regard to his long experience in the penitentiary service, your Commissioners do not believe that this officer is likely to show such improvement as would justify his retention in the service.

Deputy Warden

The deputy warden of this institution must take a share of the responsibility for the highly unsatisfactory state of staff discipline in the penitentiary.

When before your Commissioners, the deputy warden sought to justify his keeping an officer on tower duty for two years by stating that the man talked broad Scotch. He contended that changing guards from one tower to another was in compliance with a bulletin, which required officers' duties to be changed bi-monthly in order that officers might become experienced in all custodial posts. He also admitted that he had segregated prisoners and deprived them of certain privileges on the strength of stories told to him by other prisoners whom, he said, he could trust. In one case, prisoners were segregated solely on the strength of a list of names given to him by a prisoner of most disreputable character. We do not believe the word of this inmate ought to have been accepted without supporting facts. It was only natural that these prisoners should feel that they had been very unjustly treated. Although the deputy warden is not entirely responsible, yet, in view of the fact that he discussed this action with the warden before it was taken, we believe that his conduct and the attitude taken by him with regard to espionage and informers generally is to be condemned.

CHAPTER XXIX

BRITISH COLUMBIA PENITENTIARY

Buildings and Grounds

The site of British Columbia Penitentiary, which is on a hillside, is difficult to adapt to the ordinary uses of a penitentiary. It has advantages from an artistic point of view but the physical features of the land do not lend themselves to a convenient or practical development of the institution.

With certain exceptions, your Commissioners are of the opinion that, when completed, the present buildings will be sufficient to meet all the requirements of the penitentiary for many years to come. Your Commissioners are also of the opinion that no new extension of the buildings should be made on the present site because, having regard to the character of the land, the available area within the walls is inadequate to meet the needs of any substantial increase of the population.

General Discipline

The discipline among the officers and inmates of British Columbia Penitentiary is better than in the majority of the federal institutions. Both the warden and the deputy warden appear to be respected by officers and inmates alike and, with a few exceptions, are receiving the co-operation of the whole staff. The warden's court is conducted with dignity and decorum and few complaints of unjust punishment reached the Commission.

Many of the staff appeared before the Commission and their representations were presented in such a well organized and concise manner as to demonstrate their suitability for greater training and their eligibility for promotion. The presentation of these representations reflected credit both on themselves and on their senior officers.

A justifiable complaint was made to the Commission as to the number of temporary officers on the staff. Of the forty-five custodial officers employed in the penitentiary, thirty-three were employed on a temporary basis. Two of these have been in the penitentiary service for seven years; eight for six years; thirteen for five years; eight for four years, and two for three years. As pointed out elsewhere, your Commissioners are of the opinion that it is unfair to keep officers in the penitentiary service on a temporary basis for such long periods. After they have shown that they are efficient and capable of performing the duties assigned to them they should be confirmed in their appointments.

Members of the staff also made representations to the Commission in regard to the limitation of the warden's authority to grant temporary leave in special circumstances. According to the present regulations it is necessary for the warden to receive departmental approval before he

may grant temporary leave even in cases of serious illness or death. Your Commissioners are of the opinion that this restriction is subversive of discipline.

Industries

Industries in this penitentiary are not well developed. The largest number of prisoners is employed in connection with the construction of a new cell block now nearing completion, and the nature of the work provided is not such as will enable the inmates to learn a trade that will provide them with any special qualifications for employment when released from custody.

The penitentiary is equipped with a blacksmith shop, carpenter shop, machine shop, tailor shop, laundry, shoe shop, and garage. There is also a farm. Of the 292 prisoners in the institution at the close of the year, 1936-37, 104 were employed in the above shops. It does not follow, however, that, because these prisoners are employed in the shops, they are learning the trades that are followed in them. In most cases there is insufficient work to give the inmates the necessary training in particular trades, and the shops are used for the purpose of producing supplies to meet the requirements of the penitentiary rather than for the purpose of training the prisoners.

Representations were made to the Commission by members of the staff who are employed in the engineering department. They suggested that more definite steps should be taken to exploit all the possibilities of teaching steam-engineering to suitable prisoners in the institution and that, subject to good behaviour, inmates should be continued in the department, given special instructions through classes and otherwise, and permitted to prepare themselves for their examinations, with a view to receiving papers as qualified stationary engineers. Your Commissioners have been informed that in the province of British Columbia steam-engineers are in demand for the lumbering industry, and it would appear that full advantage should be taken of the opportunity for training thus afforded in this department to organize proper classes without delay.

Farm

The farm operated in connection with British Columbia Penitentiary consists of approximately 100 acres. Twenty-six acres were under cultivation during the year ending March 31, 1937. The chief products were potatoes, vegetables, and pork. During the same year, pork was supplied to the steward to the value of \$1,975.33, and vegetables to the value of \$1,522.53. The total produce of the farm for the year amounted to \$4,974.61, on which a loss was shown in the annual statement amounting to \$3,404.23. This loss was shown after charging 4,095½ days' labour against the farm, or \$2,047.75. If the charge for labour were to be deducted a loss would still be shown on operation of this twenty-six-acre farm to the extent of \$1,356.48. Your Commissioners are of the opinion that greater efficiency should be shown in the operation of this farm.

Recreation

Recreation at British Columbia Penitentiary consists chiefly of volley ball, which is played on the small area suitable for the game for half an hour each day.

During the year 1937 the warden installed inexpensive radio equipment in the institution. The cost was approximately \$250, and this was subscribed by the inmates. Loud speakers have been installed throughout the ranges and programs are given at the discretion of the warden. A summary of the news is broadcast daily at noon, and selected musical programs and educational features are broadcast during the evening.

While, no doubt, these broadcasts have the effect of relieving the dulling monotony of prison life, your Commissioners are not convinced that the experiment will prove satisfactory. The noise of the loud speakers in the ranges is most disturbing for prisoners who do not desire to listen to the radio, and innumerable complaints have been received regarding the choice of programs. The prisoners appear to have adopted the attitude that, having paid for the radio, they have a right to choose the programs.

Young Offenders

Young prisoners are segregated from the rest of the population at British Columbia Penitentiary but they are not receiving any training to qualify them for employment after they leave the institution. They are engaged in excavating or other general labour in the yard and do not even receive proper instruction. The school master has made several attempts to organize something of this nature but his efforts appear to have met with little real success.

Classification

An effort has been made to conform to the penitentiary rules and regulations in regard to the classification of prisoners at British Columbia Penitentiary and, although more has been done in this penitentiary than any other in Canada, the work of classification even here does not fully comply with such rules. The deputy warden has made an effort to study each prisoner with a view to obtaining some personal data and, although this is incomplete, it is very much more satisfactory than any that has been found in the other penitentiaries. A memorandum based on the researches of the deputy warden has been attached to the record of each prisoner and is available for the information of any penitentiary official who will consult the file. Several of these memoranda read by members of the Commission showed convincing evidence that this deputy warden was taking an intelligent and individual interest in the inmates.

The prisoners are divided into four classes:

Class A.—Prisoners under twenty-one years of age and those who attain twenty-one years while undergoing imprisonment who are considered suitable to remain in this class;

Class B.—Prisoners over twenty-one years of age having no previous convictions;

Class C.—Prisoners over twenty-one years of age with previous convictions in reformatories, jails, or penitentiaries;

Class D.—Prisoners over twenty-one years of age with previous convictions in reformatories, jails, or penitentiaries, and who are considered incorrigibles.

At the request of the Commission, the deputy warden prepared a review of the prison population. This shows that, of 292 prisoners confined in the penitentiary in May, 1937, thirteen, or 4.45 per cent, could be classified as incorrigibles. These prisoners have little or no respect for authority and are constantly inciting other inmates to disregard the rules and disturb the discipline. Another 102 prisoners were classified as habitual criminals or incurable recidivists. For the remaining 190 prisoners there appeared to be some reasonable hope of reformation. The average age of those classified as habitual criminals is thirty-four years; twelve being between twenty and twenty-five years, and thirty-two between twenty-five and thirty years. The report showed that ninety prisoners were without previous convictions and that fifty had been previously convicted but once.

Instructional officers claimed that it was necessary to classify the inmates according to shops instead of selecting those who might be most suitably trained in certain shops. Your Commissioners are of the opinion that this difficulty should be overcome and that, while it is important to group the inmates according to their criminal tendencies, it is also important that they should be trained in employment that is congenial to them and most likely to fit the individual for employment after discharge from the institution.

The practice of classification has been nullified to a certain extent by the transfer of prisoners from one gang to another without following a proper principle of classification.

Kitchen and Steward

The commissary department at British Columbia Penitentiary is in the hands of a new steward who has shown an interest in economical operation. Complaints regarding the preparation of food were not so numerous at this institution, although better equipment, especially ovens, is required. There should also be a shower bath for kitchen workers. It was represented to the Commission that stores might be purchased more economically in the local market than, as at present, through Ottawa. The kitchen and store room were maintained in satisfactory condition and the food was good, plentiful, and reasonably well prepared.

Hospital, Doctor, and Medical Services

A part-time physician is in charge of the medical services of British Columbia Penitentiary and your Commissioners found the arrangement to be working out in a satisfactory manner. There are few complaints in regard to the medical treatment, and the general health of the inmates appears to be good.

Twenty-eight patients, the highest number during the past three years, were admitted to the hospital during the year ended March 31, 1937. No effort is made to treat surgical or other serious cases within the penitentiary. Patients who are seriously ill are removed to the municipal hospital at New Westminster and their treatment there is paid for by the Department. This arrangement seems to have given complete satisfaction, with inmates receiving the best medical and surgical attention and proper nursing care at a moderate expenditure. It has been suggested from time to time that a new hospital should be erected on the penitentiary grounds, but your Commissioners do not believe that, in the circumstance, this expenditure would be justified.

Under the present arrangement, the medical treatment given to the inmates is better than they would receive in a penitentiary hospital, while the expenditure is very much less. The present arrangement might be improved by the expenditure of a small amount of money in the renovation of that portion of the building that is now used for hospital purposes, and the present cells, with the exception of two for dangerous and difficult cases, might be removed to provide a properly equipped ward for the care of cases which are not sent to the Civic Hospital.

Chaplains and Religious Services

The religious services at British Columbia Penitentiary are in charge of a Protestant chaplain and Roman Catholic chaplain. The Salvation Army used to come to the penitentiary for periodical band services of a religious nature but, due to friction which recently arose, these have been temporarily discontinued.

The Protestant chaplain, who was on the verge of retirement when the Commission was sitting at the penitentiary, appears to have given satisfactory service during his connection with the institution.

The Roman Catholic chaplain, who was at British Columbia Penitentiary during the visit of the Commission, has since been transferred to other duties not connected with the prison service, and has been replaced.

Education: School, Library, and Teacher-Librarian

British Columbia Penitentiary possesses a moderately well equipped library, which is deficient, however, in modern technical books. This deficiency is to be regretted, inasmuch as such books might enable prisoners who so desired to pursue studies in technical subjects.

The supply of magazines is supervised by the schoolmaster and the two chaplains. Innumerable complaints were made to the Commission about the censorship of these magazines and, upon examination, they were found in many cases to be well justified. For example, pages were extracted from such reputable magazines as *The Sphere* and *The London Illustrated News* because they contained references to the Spanish Civil War and it was feared that such references might have some communistic influence on the prisoners. *Current History*, *Revue of Reviews*, and *Asia* were taken off the subscription list of magazines

without any easily understandable justification. Your Commissioners are of the opinion that the censorship of magazines at this penitentiary has reached a state of absurdity. While such reputable journals have been mutilated or barred, other magazines containing mere trash have been permitted circulation.

Your Commissioners are of the opinion that the school in this penitentiary is not well organized and that it is not producing satisfactory results. The schoolmaster is of a highly nervous temperament and, in the opinion of your Commissioners, is not endowed with the personality or judgment to equip him for this difficult and important position. The entire educational service in this penitentiary (school, library, and personnel), requires complete reorganization and improvement.

Warden and Deputy Warden

The warden is William Meighen. He is sixty years of age and has been in the penitentiary service for twenty-three years. The deputy warden is Robert S. Douglass. He is forty-five years of age and has been in the penitentiary service twenty-four years.

The warden appeared to have the full confidence of both the penitentiary staff and the inmates. With the assistance of the deputy warden a discipline has been maintained in this penitentiary superior to that in many other Canadian penitentiaries. There was an absence of any well founded complaints either by the officers or the inmates, which, together with a complete examination of the affairs of this penitentiary, has satisfied your Commission of the efficiency of these officers. The deputy warden is the only officer, exclusive of the Protestant chaplain at Manitoba Penitentiary, who has attempted to maintain case histories of all inmates. He appears to have made a conscientious effort to gain a thorough knowledge of the prisoners and to make it available to the classification board. We think his efforts in this regard are commendable.

PART IV

CHAPTER XXX

REORGANIZATION OF THE PENAL SYSTEM OF CANADA

CENTRALIZATION OF CONTROL OF PROVINCIAL JAILS, REFORMATORIES, AND PENITENTIARIES

Section 1056 of the Criminal Code, Chapter 36 of the Revised Statutes of 1927, with amendments, reads:

"Everyone who is sentenced to imprisonment for a term less than two years shall, if no other place is expressly mentioned, be sentenced to imprisonment in a common gaol of the district, county or place in which the sentence is pronounced; or if there is no common gaol there, then in that common gaol which is nearest to such locality, or in some lawful prison or place of confinement *other than a Penitentiary*, in which the sentence of imprisonment may be lawfully executed."

Section 41 of the Penitentiary Act provides that everyone who is sentenced to imprisonment for life or for a term of not less than two years shall be sentenced to imprisonment in a penitentiary for the province in which conviction takes place. These sections were combined in Section 955 of 55-56, Victoria, Chapter 29, 1892. These provisions, with certain exceptions, were taken from the Revised Statutes of 1886, Chapter 181, Section 28, and also Section 28 of 32-33, Victoria, 1869, Chapter 29, Section 96. These sections had their origin in the Consolidated Statutes of Canada, 1859, Chapter 99, Section 100, and in 14-15, Victoria, 1851, Chapter 2, Section 2, and 6 Victoria, 1842, Chapter 5, Section 3. Prior to this, Chapters 24, 25 and 26 of 4-5, Victoria, 1841, provided for punishment for certain offences, in the following language:

"To be imprisoned at hard labour in the provincial penitentiary for any term not less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years."

Section 3 of the 1842 Statutes is the earliest provision to be found fixing the two-year period as a dividing line. That Statute was passed for the "better proportioning the punishment to the offence in certain cases, and for other purposes therein mentioned."

The British North America Act provides that the legislative authority of the Parliament of Canada extends to (a) the criminal law except the constitution of courts of criminal jurisdiction, but including procedure in criminal matters; (b) the establishment, maintenance, and management of penitentiaries; and also provides that the legislatures of the provinces may make laws in relation to (a) the establishment, maintenance, and

management of public and reformatory prisons in and for the province. There is no provision in the British North America Act defining penitentiaries or fixing the dividing line between the prisoners who are to serve terms in the penitentiaries and those who are to serve terms in the reformatories at the two-year period of sentence.

Among the resolutions adopted by the conference of the provinces at Quebec City in 1887, which was called at the suggestion of Honourable Honore Mercier, then Premier of Quebec, was one urging the federal Government to take charge of all prisoners sentenced for a term of more than six months. The suggestion was not accepted by the federal Government of that day.

In 1936, 15,542 persons were committed to provincial institutions without the option of a fine and 9,593 with the option of a fine, while only 2,905 persons in all were committed to the penitentiaries. Thus the federal authorities have control of only a relatively small number of those who are annually committed to prison.

There is no doubt in the minds of your Commissioners that uniformity of administration and the application of scientific principles to such administration, if made applicable to all those who are incarcerated in penal institutions in the Dominion of Canada, would provide a better penal system and one to which the recommendations of your Commissioners could be most fittingly applied. It is obvious, for example, that if different treatment than that recommended by your Commissioners is given to the prisoners in provincial institutions, if classification and segregation are not uniformly instituted, if a different discipline is in effect, and the administration is not supervised by the same authorities, the success of the system recommended by your Commissioners would be jeopardized, and the evils discerned in the antiquated treatment at present in existence would be permanently extended. The federal authorities would be handicapped in the proper treatment of those who come to federal institutions already stamped with the imprints of the multiple provincial institutions.

Every country in the world, except the United States of America and Canada, possesses a centralized penal system. In the United States, offenders against federal laws are sent to federal prisons, and offenders against state laws are sent to state, county, or municipal institutions. These penal institutions are functioning under various systems of control, with consequent inequality in treatment and in punishment. Mr. William J. Ellis, LL.D., Commissioner of the Department of Institutions and Agencies of the State of New Jersey, deplores this situation in the following words:

"In the United States there is no integrated system of dealing with law violators. Local authorities, State authority and Federal authority now operate under almost totally divorced systems and, as a result, prevention of crime and the reformation of criminals has not made satisfactory progress. Responsibility for the individual offender rests with overlapping governmental authorities. The

municipal responsibility in the first place, the county, which includes the municipal, is also responsible, then the state, which includes both county and municipal, and lastly, the Federal Government which includes the other three. Each of the governmental units has, at the present time, made separate and specific provision for the incarceration of offenders."¹

In Great Britain, there existed before 1877 a wasteful chaos in the administration of the prisons. By the Prison Act of that year the ownership and control of all local prisons, with all the powers and duties relative thereto, were vested in the Secretary of State, the cost of their maintenance was transferred to public exchequer, and general superintendence, subject to the control of the Home Secretary, was vested in a Board of Prison Commissioners. The rule-making power of justices having passed to the Secretary of State, a new code of rules was issued in 1878 and, as from April 1 of that year, all the local prisons came for the first time under one single code and one central control. The report of the Gladstone Committee,² which followed in 1898, was accepted by the Home Secretary as a further basis of development in prison administration, and the Prison Act of the same year, which resulted from this report, has remained the authoritative expression of parliamentary opinion on the subject. With the unrepealed portions of the Acts of 1865 and 1877 it forms substantially the legal basis of the present regime. As a result of these measures county jails were abolished, twenty-nine prisons were closed, and the consequent decrease in the number of inmates provided a great saving in the administration of the prisons. Moreover, it has made possible a tremendous decrease in recidivism because of the scientific treatment of prisoners and the uniform policy of the administration.

In England and Wales, with a population of approximately 41,000,000 people, there are now twenty-five prisons to which prisoners of all classes are committed direct by the courts, and these are known as local prisons. Under the Penal Servitude Act there are also four prisons for men and one for women, one training centre, and one preventive detention prison. There are also six Borstal institutions for boys and one for girls.³

In Canada, with a population of 11,000,000, there are twenty-two adult reformatories, seven penitentiaries, and 118 county jails.

During recent years public interest in penology has developed rapidly and, as stated previously, it has been more generally recognized that prisons are not merely places of custody and punishment but also places of reformation and rehabilitation. The many important questions involved in a scientific administration of the penal system cannot be solved as well by several independent administrations, working from different angles and with different points of view, as by one central administration following a definite scientific program under a continuity of policy.

¹ *Annals of the Am. Ac. of Pol. & Soc. Science*, Sept. 1931.

² Report of the Departmental Committee on Persistent Offenders. Lond., 1932.

³ Fox—*The Modern English Prison*, Routledge, Lond., 1934.

Classification is the basis of success in penal administration and it cannot function properly unless it is an integral part of a definite program undertaken by a single administrative authority. Sanford Bates, ex-Director of the Bureau of Prisons of the Department of Justice at Washington and now Director of the Boys' Clubs of America, stated¹ that continuity of policy and the focussing of responsibility is most satisfactorily achieved under a single executive who is in touch with the whole problem.

Your Commissioners are well aware of the difficulties to be overcome in such a consolidation, but they are also aware that many of these difficulties existed in England before 1877 and did not prevent consolidation. It is in the power of the Parliament of Canada to amend section 1056 of the Criminal Code, the Penitentiaries Act, and the Reformatories Act, to change the minimum term for which a convicted person may be sentenced to a penitentiary and to prescribe the nature of treatment to be given in federal institutions. Alternately, an agreement might be made between the Dominion and the provinces for the former to take over the administration of provincial penal institutions, paying compensation therefor, in order that persons committed to prison should be committed to federal institutions for terms of less than two years.

Your Commissioners are emphatically of the opinion that without this centralized control of penal institutions the best efforts in prison administration will be gravely handicapped and, in many cases defeated. Until such consolidation is attained, your Commissioners hope that different provincial governments will co-operate with the federal authorities in establishing a system in provincial penal institutions that will follow as closely and uniformly as possible the system adopted in the federal institutions as a result of the recommendations contained in this report.

APPOINTMENT OF A PRISON COMMISSION TO ADMINISTER CANADIAN PRISONS

In our present system the problem of penal administration is too large in scope and too serious in results to be left in the hands of one man. It is noteworthy, as a matter of record, that Canada is practically the only country where the penal system is not administered by some kind of commission or board.

In Great Britain, the Prison Commission is composed of a chairman and two other Commissioners, one administrative and the other medical, and is re-enforced by four assistant Commissioners, one of whom acts as secretary. When the post of Commissioner is vacant, the Crown, on the recommendation of the Home Secretary, appoints a successor, signing and issuing a royal warrant therefor. The Commissioners, their assistants, and the entire headquarters staff are permanent employees, only resigning at such time between the ages of sixty and sixty-five as they or the

¹ *Annals of the Am. Ac. of Pol. & Soc. Science*, Sept., 1931.

Department may decide. Under this system, a continuity of policy can be maintained and the control of prisons, though subject to the will of Parliament, is divorced from the changing views of party policy. Each member of the Commission is responsible for his own share of the work of the Department. Differences of opinion may arise in the course of the Commission's discussions, but, to date, it has not been found necessary on any occasion to bring a question to a vote for settlement.

Each of the three assistant commissioners is allotted a third of the thirty-five establishments under the care of the Commission and, in addition, he is especially entrusted with a particular phase of the prison problem. For example, one might be an expert in security or the size of staff, another in education and aid on discharge, and a third in the training of young offenders. The Prison Commission is a body corporate with a common seal and the power to hold land. It is housed in the Home Office but is for accounting purposes a separate department with its own establishment, of which the chairman is accounting officer. The department is organized in four branches: The secretariat under the chief clerk, the accounting branch under the clerk of accounts, the stores and manufacturers branch under its comptroller, and the works branch under the surveyor of prisons. The method of administration is based on the ideal of uniformity. All decisions of policy are taken in meetings of the board, and the day to day working of the prisons is regulated in the closest detail by a comprehensive body of standing orders issued by the Commission. No prison governor is permitted to depart from these orders. Each assistant Commissioner, other than the secretary, is responsible to the board for the administration and inspection of his own block of prisons or Borstal institutions. He visits these as often as may be necessary. They are also visited by the Commissioners themselves. The accounts of the establishments are audited annually and the work of their clerical staffs is inspected by the Prison Department. The Commissioners present to Parliament an annual report, in which may be found all public statistical matter relative to the nature and composition of prison population with explanatory comments by the Commissioners. The staff of a prison consists of superior and subordinate officers. The superior officers, i.e. governor, chaplain, and medical officer, are appointed by the Secretary of State, and subordinate officers by the Prison Commissioners. Your Commissioners have been so favourably impressed by the efficiency of the English administrative machinery that they strongly recommend that a commission based on these lines be appointed in Canada to take charge of the administration of our penal institutions.

In Canada, the Commission should, for the purposes of administration, be responsible directly to the Minister of Justice and to Parliament in the same manner as the Commissioner of the Royal Canadian Mounted Police.

The Deputy Minister of Justice, in his submissions to the Commission, was emphatically of the opinion that the penitentiaries should not be under the Deputy Minister of Justice for the purposes of administra-

tion. In our opinion, as the Chief Law Officer of the Crown he ought not to be burdened with penitentiary administration.

The Prison Commission, as recommended, would perform the functions now performed by the Superintendent and three inspectors. It would have power to appoint staff, and would act as a central parole board. The members should be removable only for cause.

BOARD OF OFFICIAL PRISON VISITORS

Under the present system existing in the Canadian penitentiaries, what is going on in the institutions is shrouded with absolute secrecy, giving rise to suspicions and misgivings, which are further enhanced by extravagant and biased tales of ex-prisoners and the imagination of sentimentalists. Although, for the sake of security, no undue publicity should be given, a practical check of what is going on should be made.

As stated in chapter V, in dealing with trial for prison offences a serious feature in the penitentiaries is that a prisoner has no outlet whatsoever for his grievances and no appeal lies from prison court sentences, with the result that the prisoner feels that he has no access to a fair administration of justice and is absolutely removed from the protection of his fellow-men.

These two features, namely, the elimination of the veil of secrecy and the necessary outlet for prisoners' grievances, have been effectively taken care of in England by the appointment of the visiting committees and the official Board of Visitors.

Boards of Visitors, similar to the visiting committee and official Board of Visitors in England, should be created. Your Commissioners recommend that these Boards of Visitors, or visiting committees, should be composed of one County Court judge (in Quebec, a judge of the Court of Sessions), one representative of a recognized social welfare association, and a medical doctor. These boards should be appointed by the Prison Commission. Their duties should be to visit and inspect the different penitentiaries regularly, to hear complaints of the inmates and their appeals from the decisions of the prison court, and to make reports of their findings to the Prison Commission.

RECONSTRUCTION OF PERSONNEL

Your Commissioners are convinced that the success or failure of the recommendations contained in this report will depend almost entirely upon the prison personnel to be charged with carrying out the recommendations. The success of every prison system is dependent upon the type of officers in that system.

It is herein clearly indicated that, in the opinion of your Commissioners, it is imperative that several officers should immediately be retired from the service. As soon as the Prison Commission herein recommended has been appointed, a definite plan should be evolved for a complete reconstruction of the personnel on entirely new lines. Heretofore, officers

have been selected with little regard for their ability to perform other than custodial duties. The result has been that there are few officers in the service who have either the capacity or the training to exert any reformative influence on the prisoners. They are "guards" and nothing more.

An incident which occurred at Kingston Penitentiary during the visit of the Commission to that institution serves graphically to illustrate the force of this statement. One of the secretaries to the Commission was passing through the prison grounds inside the gates (it was obvious that he could not be there without permission) when he was accosted by a senior officer in these terms: "Where the hell do you think you are going?" It requires no imagination to realize the influence that the arrogant stupidity of this officer would have on the prisoners with whom he comes in contact. After a few months' treatment by him even the most penitent prisoner would be stirred to violent antisocial emotions if he still possessed a residue of the red blooded resentment that is so necessary in the ordinary competitive world.

This is a small incident but it illustrates a great principle. Men in confinement for a period of years cannot be treated as if they had forfeited all rights to human consideration, other than to be kept warm and well fed, if they are to be expected to become normal members of society on release. That this principle has been realized with excellent results in England was made apparent to your Commissioners at the time of their visits to the institutions of that country. It was manifest that great importance was placed on the human approach to the prisoners and that in order to make this effective a superior type of personnel had been engaged for prison service. At all prisons visited by the Commission the officers appeared to be men and women of real intellectual attainment, many of whom had extensive university training. Their attitude toward the prisoners distinctly indicated a sincere desire to be corrective rather than merely custodial.

All officers of whatever rank are required to take training and undergo examination. A special school for training officers is carried on at Wakefield in connection with the prison there. The course consists of eight weeks' instruction and one-half week devoted to examinations. The following extracts, taken from the syllabus, indicate the scope and nature of the course and the departmental attitude towards the training of officers:

"No matter what Public Service one deals with—Social or Fighting—if the Personnel is not of the right type for the work in question—I stress that, for the work in question—the results will be poor. This is particularly so in Service where the main preoccupation of the Staff is in dealing with human beings as opposed to finance or commerce. In no Public Social Service is this more true than in the Prison world where we have to deal with both sexes; men and women of all strata of Society, old and young in years of crime, rich and poor, the

good and the bad, and, in some cases, the very bad. How do we, in the English Prison Service, select and train our staff to deal with these men and women?

I propose to confine myself to Male Officers—and to the important details only—later I shall welcome questions and criticisms, and be glad to go into further details if it is of any interest to any particular delegate.

Very briefly, the system of selection is as follows: Men applying to prison or the Home Office are given Forms A. and B., copies of which you have in your possession. The conditions of service are brought to the notice of all members of the Fighting Forces of the Crown shortly before discharge. The completed applications are sent direct to the Prison Commission in London; here the forms are examined by a Commissioner of Prisons, and he selects therefrom those men whom he considers worthy of an interview. These men are summoned in due course, at their own expense, to attend at the Prison nearest their homes, or at the Commission in London, for personal interview by one of the Assistant Commissioners of Prisons. Those considered promising are forthwith medically examined by the Medical Officer, and, if fit, given a written Intelligence Test. Later, if still up to standard, they are summoned to attend a course of 9 weeks preliminary training at the school in Wakefield.

A word about the Staff at the Training School. The Deputy-Governor is in immediate charge, and he is assisted by two Principal Officers, a Physical Training Instructor, and a Judo Instructor. These Officers are specially selected by the Commissioners from the whole Service—they are experienced men of the very highest personal integrity, of great patience, with a capacity to impart their knowledge to other people and possessing an acute sense of humour. They will need it.

The Probationers are housed in two buildings outside and adjoining the Prison—they run their own Mess Committee—(Cooking and cleaning is done by Prison labour) and, whilst they are on the Course, though they wear mufti, they have the full status of an established Prison Officer. They are paid as such, and their service counts towards pension.

As to the Course itself, you have copies of the Syllabus and a few general notes. On the theoretical side, and very broadly, the lecturers deal in sequence with the offender against the law, from the moment he comes in contact with it—in the guise of the police—through, if he is sent for a course of Borstal Training or to a Prison, his life thereat until his release, and, after release, with his aftercare and possible rehabilitation in civil life. This you will see from the Syllabus. Notes on these Lectures are written up in note-books by the Trainees, corrected by the Staff, retained by the men on posting to Prisons, and constitute convenient reference books for them throughout their service. Written examinations are held at half-term, and at the end of the Course.

On the practical side the Trainees do duty in the Prison, in charge of prisoners, but under the regular Staff; they visit the Prison at Leeds, where they make contact with types of prisoners not met with at Wakefield; they visit a Court of Assize, and an approved Home Office School. They undergo a course of Physical Training, not with a view to making them expert performers, but to turning them out fit to take classes of prisoners; and a course of Judo locks and holds for use in dealing with refractory prisoners. Games are arranged with the Prison Staff, and they visit the Prison Camp.

Throughout the Course they are closely observed, interviewed and questioned by the Governor, the Deputy-Governor, the Chief Officer, and their immediate instructors, and in a comparative assessment of efficiency, are awarded marks under such headings as Character, Personality, Powers of Control, Ability to Lead, Alertness, Personal Smartness, and so on, and detailed written reports by each official are prepared. Finally, candidates are interviewed by the Commissioner, who after consultation with the Staff at a round table conference, decides whether they shall be retained or their services dispensed with. At this conference every official gives his full and frank opinion on the man in question from every angle. In some cases great clashes of opinion arise—this is entirely wholesome. Different officials see different aspects of a man's character, for they have served at widely different types of Prisons, and look for various good and bad qualities in the men. It is believed that after nine weeks a fairly comprehensive picture of the man's makeup can be drawn. If there is any doubt as to the man's worth and suitability in every respect—particularly temperamentally—for the work of a Prison Officer, the Service is given the benefit of the doubt, and the man has to seek other employment.

Those who are retained are posted to prisons or Borstal Institutions for a further two months' instruction. This instruction is of a practical nature, short periods being spent in each of the sections of the Prisons, i.e., Reception, Gate, Kitchen, Association, Shops, Working Parties, etc. Lectures are given by the Governor and senior officers, and oral and written examinations are held. Reports are made and submitted to the Commissioners, who decide whether the Probationer will now be posted for duty, his instruction period extended, or his engagement terminated.

If posted for duty, he serves another eight months carrying out the ordinary duties of an Officer, and when he has completed that period—a total of twelve months from first joining—further reports are sent to the Commissioners. If these are satisfactory, his appointment is confirmed; the Probationary Officer becomes established, is a Permanent Prison Official, and a pensionable civil servant.

Some 12,000 men apply annually to join the Service, and to fill some 120 vacancies; i.e., about one applicant in 100 reaches the Training School. Of the men that reach the School some 75 per cent

are ex-service men, and of these some 16 per cent are pensioners, i.e., they have completed some twenty-one years' service in one of the Fighting Forces. Some four or five Courses are held each year, each of forty to fifty men. Approximately 75 per cent of these pass on to Prisons or Borstal Institutions. Candidates for the Medical side go to the Medical Training School at Parkhurst prison in the Isle of Wight for a further two months refresher training in medical duties before joining their regular institutions.

What are the advantages of a Training School over direct entry? I would suggest:

1. One standard of training throughout the service.
2. Concentration on the suitability of candidates by specially selected Prison Officers.
3. An insight into how men react in association with their brother officers.
4. Help in coming to a decision as to which type of Prison or Borstal Institution a particular man is best suited for.

I would emphasize the fact that on these Training Courses we do not attempt to produce the completely trained Prison Officer; only time and experience can do that.

What we do try to do is to give the man a general broad outline of the varied duties and responsibilities that will fall to his lot—at the same time arriving at the most accurate character assessment we can of each individual—thereby assuring, as far as is possible, that only the most suitable go forward.

Finally, what do we want and look for in the English Prison Officer? First of all the temperament must be right. Many an otherwise excellent fellow is temperamentally quite unsuitable. He worries—or alternatively cannot bother with details—he is no use to us. We are most concerned with him as a man, with what he is now and his outlook on life now, rather than with his previous record or intellectual or educational excellence. Many a good man has already given his best in other services.

A minimum standard of education—and that a high one—is, of course, essential; beyond that the manly, straight-forward, self-reliant man of high ideals, great patience, energy and integrity is what we look for and insist on having; ability to get on with his brother officers and a sense of humour are essentials. We make mistakes. The temptations of an Officer are great, and opportunities for disloyalty many. Whether our buildings, our system, or our after-care work is good or otherwise is a matter for argument; we do claim that the personnel of our Service is second to none—it is the aim of the training school at Wakefield to keep it so."

"The Course of Instruction comprises 'a review of the life of a man from the moment he appears in a Police Court to the time when he is

finally re-established in Society on his release from Prison, and combines with it the duties of an Officer at each stage of the man's career.'

Subject

1. Some of the causes of crime.
2. Courts of Justice.
3. Probation.
4. Home Office Schools.
5. Borstal.
6. The Penal System.
7. The Prison Service.
8. The Prison Officer.
9. The ideals of an Officer.
10. The authority of the Service.
11. Security.
12. Gate Duty.
13. Receptions.
14. Classifications.
15. Internal Supervision.
16. Party Control.
17. Progressive Stage System.
18. Visits and Communications.
19. Adjudications and Punishments.
20. Restraints.
21. Sanitation.
22. Observation Duty.
23. Escorts.
24. Bails and Fines.
25. Education.
26. Prison Visitors.
27. Fire Duty.
28. Boilers.
29. Office Routine.
30. The Chaplain's Job.
31. Court Duty.
32. Convict Prisons.
33. The Prison Officers' Representative Board.
34. Prisons of 1950.
35. First Aid (Series of Lectures and Practical Instruction).
36. The Problem of Women Prisoners.
37. The Prison Commission.
38. Discharges.
39. After-care.

Subject to alteration."

Your Commissioners are of the opinion that, as part of the program of reconstruction of personnel, plans should be made to recruit, during the next five years, new officers who have capacity for training, and in suffi-

cient numbers to form the basis of a service that will ultimately be comparable in training, character, and general proficiency, to the British Prison Service or the Royal Canadian Mounted Police.

In order to obtain the right type of officers it is of utmost importance that the selection of these officers should be left entirely to the Prison Commission. Political considerations should have no place in their selection. Efforts should be made to interest university students in this branch of the public service and to assure them an opportunity to make it a career once they have entered the service. The co-operation of the social service departments of the universities of Canada ought to be enlisted with a view to encouraging them to establish special courses for those who wish to enter the prison services.

Your Commissioners are emphatically of the opinion that the idea still held by some of the "old school" that prison discipline cannot be efficiently maintained by men of intellectual attainment is entirely fallacious. The Great War showed that students and graduates took second place to none in courage and discipline in all branches of the fighting services. Many university graduates have entered the police services in Canada and in the United Kingdom, where they have served with distinction. The regulations governing the Metropolitan Police College require that one-third of those entering each training course for officers shall be university graduates. The need of this type of public servant is much greater in the penitentiary service, where the human element is so important and the study of human emotions and human reactions so imperative.

It is hopeless to attempt to raise the standard of the personnel to the necessary levels, however, unless merit is to be recognized as the only basis of promotion and *political considerations are to be entirely eliminated* from the selection and promotion of officers. It is also imperative that the pay of officers should be raised to a standard somewhat comparable to the rates prevailing in other similar services. It is hopeless to expect to get competent penitentiary officers at salaries that are considerably less than the wages paid to street cleaners in the large cities of Canada. The following is the schedule of salaries paid to all ranks in the penitentiary service:

SALARY INCLUDING ALL ALLOWANCES

| | Minimum | Maximum |
|---|---------|---------|
| Superintendent.. . . . | \$5,100 | \$5,700 |
| Inspector.. . . . | 2,940 | 3,420 |
| Chief Engineer.. . . . | 3,420 | 4,140 |
| Warden—Grade 1.. . . . | 3,660 | 4,440 |
| Warden—Grade 2.. . . . | 4,500 | 5,100 |
| Deputy Warden.. . . . | 2,820 | 3,420 |
| Chief Keeper.. . . . | 1,740 | 2,100 |
| Assistant Chief Keeper (St. V. de Paul. only).. . . . | 1,680 | 2,040 |
| Chaplain (full time).. . . . | 2,520 | 2,520 |
| Chaplain (part time).. . . . | 1,620 | 1,620 |
| Physician (full time).. . . . | 2,520 | 3,120 |
| Physician (part time).. . . . | 1,500 | 1,800 |
| Physical Training Instructor.. . . . | 1,440 | 1,680 |
| Chief Trade Instructor.. . . . | 2,040 | 2,520 |
| Blacksmith.. . . . | 1,440 | 1,800 |
| Bookbinder.. . . . | 1,440 | 1,800 |

| | Minimum | Maximum |
|-----------------------------|---------|---------|
| Canvas Worker.. | 1,440 | 1,800 |
| Carpenter.. | 1,440 | 1,800 |
| Farmer.. | 1,440 | 1,800 |
| Steward.. | 1,740 | 1,920 |
| Assistant Steward.. | 1,320 | 1,560 |
| School Teacher.. | 1,560 | 1,860 |
| Keeper.. | 1,560 | 1,880 |
| Guard.. | 1,200 | 1,500 |
| Matron.. | 1,080 | 1,200 |

Your Commission is advised, by the street cleaning department of the city of Toronto, that employees engaged to collect garbage are paid at the rate of \$30 per week on the basis of an eight hour day, or \$1,560 per annum.

Penitentiary service salaries also compare unfavourably with those paid to police officers in representative communities.

The following table shows the salaries paid to all ranks in the Montreal Police Department:

| | | |
|---|---------|-----------|
| Director.. | \$9,000 | per annum |
| Assistant Director.. | 4,500 | " " |
| Inspector (Detective Bureau).. | 4,000 | " " |
| Inspector (Police).. | 3,500 | " " |
| Detective-Captains.. | 2,500 | " " |
| Detective-Lieutenants.. | 2,350 | " " |
| Police Captains.. | 2,260 | " " |
| Detective-Sergeants (1st Class).. | 2,260 | " " |
| Police Lieutenants.. | 2,080 | " " |
| Detective Sergeants (2nd Class).. | 2,080 | " " |
| Detective Sergeants (3rd Class).. | 1,950 | " " |
| Police-Sergeants.. | 1,900 | " " |
| Constables (1st Class).. | 1,800 | " " |
| Constables (2nd Class).. | 1,700 | " " |
| Constables (3rd Class).. | 1,600 | " " |
| Constables (4th Class).. | 1,500 | " " |
| Constables (5th Class).. | 1,400 | " " |

The following shows the salaries paid to all ranks in the Toronto Police Department:

| | Annual rate |
|---|-------------|
| Chief Constable.. | \$8,025 00 |
| Deputy Chief Constable.. | 6,420 00 |
| Chief Inspector of Detectives.. | 4,500 00 |
| Assistant Inspector of Detectives.. | 3,584 50 |
| Inspectors.. | 3,263 50 |
| Sergeant of Detectives.. | 2,675 00 |
| Sergeants and Detective Sergeants.. | 2,514 50 |
| Patrol Sergeants.. | 2,247 00 |
| Detectives.. | 2,086 50 |
| Acting Detectives.. | 2,086 50 |
| First Class Constable.. | 2,086 50 |
| Second Class Constable.. | 1,765 50 |
| Third Class Constable.. | 1,551 50 |

Certain conditions are made to the above rates for special duties, and a reduction of 7 per cent or 9½ per cent, according to length of service, is made for the Police Benefit Fund.

The report of the Director of the Bureau of Prisons (Federal) of the United States of America for the year ending June 30, 1937 shows that in the past year the minimum salary of custodial officers was increased from \$1,680 to \$1,860.

Your Commissioners are of the opinion that it is an economic fallacy to pay low salaries, which will have the incidental consequence of staffing

the penitentiaries with a type of personnel so inferior as to be reflected in the management of the institutions and in the influence exerted upon the prisoners.

Many officers of the penitentiary staff appeared before your Commission to give evidence and file briefs. Many constructive suggestions were offered that have been most useful to your Commissioners. In addition, the evidence of these officers assisted the Commission to check and gauge the truthfulness of complaints made by the inmates.

A general request was made by the officers that an amendment be made to section 33 of the Penitentiary Act to provide that the family of an officer who has died during service should be granted the same gratuity as he would have been entitled to under section 32 of the Act upon his retirement. Your Commissioners believe that this suggestion is well founded and that as the law now stands great injustice may be suffered. The adoption of this suggestion will not be of great financial consequence. In the course of a few years the gratuity system will have been automatically ended and all the officers will have come under the terms of the Superannuation Act of 1924.

As has been indicated, many complaints have been received at the various penitentiaries in regard to the length of time officers are kept on the staff as temporary officers without being given a permanent appointment. In many cases officers have been kept as long as seven years on temporary employment. Your Commissioners believe that officers who have served a year should either be employed on a permanent basis or released.

A request has been made that provision be made for voluntary retirement, at an earlier age than sixty-five years, for officers who have served twenty-five years or over. We believe this request should be complied with.

Officers on the penitentiary staff who have had active service in the military, naval, or air services, have requested that these years of service should be taken into account in reckoning their years of prison service for the purpose of superannuation. Such provision has been made by the Royal Canadian Mounted Police. We believe that it is just that a similar provision should be made for those serving on the penitentiary staffs.

Particular reference was made to the effect on a portion of the staff of a circular sent out by the Superintendent, dated March 13, 1936.

This circular purported to put into effect the eight-hour day, and contained the following:

“As you are aware the Government of Canada has accepted the policy of the eight-hour day. With this end in view, the penitentiary staffs were increased in 1934.”

The effect of this new provision on hospital officers and the engineering staffs was henceforward to require them to do eight hours duty daily and one day of sixteen hours in order to secure one day's rest in seven.

In addition, they were required to work on all statutory holidays. Naturally, this has created a great deal of dissatisfaction in the penitentiaries. The matter should be corrected without delay.

Many matters of prison regulation dealing with the routine management of the prison staff were drawn to the attention of the Commission. Your Commissioners trust that the Prison Commission will, by closer consultation with the wardens than has characterized the past, be able to adjust many of these details with a resultant improvement in efficiency of the staff.

Your Commissioners recommend:

- (a) That an orderly reconstruction of the whole personnel be planned to be completed in not less than five years;
- (b) That a training school be at once organized for penitentiary officers;
- (c) That all applicants for the penitentiary service be required to take the course and pass the necessary examinations;
- (d) That officers at present on the staff be required to take refresher courses at the training school when organized;
- (e) That all hopelessly incapable officers be retired from the staffs;
- (f) That the selection of new officers to fill vacancies be made on merit only, and with a view to selecting officers who, with experience, would be capable of being promoted to senior positions;
- (g) That the pay of officers be brought up to a reasonable level, having regard to the type of service performed.

CHAPTER XXXI

SUMMARY OF RECOMMENDATIONS

We give below, for convenience of reference, a short summary of the principal recommendations in our report. Such a summary is necessarily incomplete and reference should be made to the text of the report for a full explanation of our proposals.

The *underlying principle* to be followed in interpreting the recommendations contained in this report is to evolve a penal system with the primary purpose of protecting society. It is of the greatest importance that this system should be characterized by that firm dignity that is traditional in the British administration of justice. There is no place in it for weak sentimentality or for cruel severity.

Centralized Control

1. The Canadian penal system should be centralized under the control of the Government of Canada, with the federal authorities taking charge of all the prisons in Canada, the provinces retaining only a sufficient number to provide for offenders against provincial statutes, prisoners on remand, and those serving short sentences.

2. An immediate conference between the federal and provincial authorities should be held with a view to obtaining the full co-operation of the provincial authorities in putting the recommendations of the Commission into effect.

Reorganization of Administration

3. There should be a complete reorganization of the headquarters administration of Canadian penitentiaries to include giving effect to the recommendations in this report as to the retirement of certain officers.

4. A Prison Commission, composed of three members removable only for cause, should be appointed with full authority over the management of penitentiaries, empowered to appoint staff, and to act as a central parole board. The Commission should be responsible directly to the Minister of Justice and to Parliament.

5. Wardens should be reinvested with the authority of executive management of the penitentiaries in conformity with the provisions of the Penitentiary Act.

6. A planned reconstruction of the personnel of the penitentiary staffs throughout Canada should be effected in order that officers who have special training will be enlisted in the service.

7. There should be co-operation with the universities of Canada in establishing suitable courses for the training of those who wish to become officers, probation officers, or parole officers.

8. A training school for penitentiary officers should be established on the lines of the courses at Wakefield, England.

9. An outstanding prison authority from England, preferably Mr. Alexander Paterson, M.C., one of His Majesty's Prison Commissioners of England, should be invited to come to Canada to counsel and advise the Prison Commission on the reorganization of the prison system in order to give practical effect to the recommendations contained in this report.

10. After careful study of the penitentiary staffs by the Prison Commission, all hopelessly incapable officers should be retired.

11. New officers to fill vacancies in the penitentiary service should be selected on a merit basis only and no consideration should be given to political influence.

12. The pay of officers should be brought up to a reasonable standard, having regard to the type of service performed.

13. Rules respecting the dismissal of officers similar to those in force in England should be adopted in Canada to make provision that an officer should have an opportunity of being heard before dismissal, and that in all cases he should be advised of the reasons for his dismissal.

14. There should be a thorough and complete revision of the penitentiary rules and regulations based on the principles contained in this report, with special regard to:

- (a) the protection of society;
- (b) the safe custody of inmates;
- (c) strict but humane discipline;
- (d) reformation and rehabilitation of prisoners.

15. An official Board of Visitors should be appointed in connection with each penitentiary. This board should be composed of a county court judge (in Quebec, a judge of the Court of Sessions), a representative of an officially recognized social welfare association, and a medical doctor. It should be under the control of the Prison Commission, and its duties should be similar to those of the boards of visitors appointed in connection with the convict prisons in England.

Classification

16. A complete revision of the methods of classification of prisoners should be made, with provision for a thorough medical and psychiatric examination of prisoners.

17. The necessary legislation should be enacted to provide for sentencing habitual offenders to preventive detention in a separate institution to be provided for that purpose.

18. All incorrigible and intractable prisoners in the penitentiaries should be segregated in one institution.

19. Separate institutions, based on the principles of the English Borstal system, should be established to permit of special treatment being given to young offenders between sixteen and twenty-one years of age. There should also be a classification centre and three grades in each unit, each grade to be separately located and not contiguous to another. Two units should be established at once, one in the province of Ontario, and one in the

province of Quebec, with a further development of the scheme in the Prairie Provinces, the Maritime Provinces, and, in a modified manner having regard to the population, in British Columbia.

20. All insane prisoners should be entirely removed from the prison population and treated in hospitals for the insane.

21. The mentally deficient should be segregated in the ordinary institutions under the direction of a trained psychiatrist.

22. Intractable and recidivist drug addicts should be removed on the order of the Prison Commission to the prison for habitual offenders.

23. A scheme of classification should be established in each prison, having regard to the previous record, social habits, physical condition, educational attainments, aptitudes, and suitable training for future employment, of individual prisoners.

24. A grades and merit system for reformable prisoners, modelled on the system in use in England, should be established.

Prison Discipline

25. Prison offences should be tried before a prison court composed of three officers and there should be a right of appeal to the Board of Visitors. The rules governing prison offences should be simplified.

26. Corporal punishment should be abolished except for the offences of assaulting an officer, mutiny, and incitement to mutiny.

27. The several recommendations contained in chapter V of this report, in regard to prison discipline should be made effective.

28. Concessions should not be granted to prisoners because of riotous and mutinous behaviour. Necessary amelioration of prison conditions should be anticipated by the prison authorities and conceded only on their merits.

Use of Firearms

29. The principle contained in the International Standard Minimum Rules in regard to the use of firearms should be strictly adhered to, namely,—“Officials should never use their firearms nor force against a prisoner except in self-defence, or in cases of attempted escape when this cannot be prevented in any other way. The use of force should always be restricted to what is necessary.”

30. Officers should be thoroughly trained in the use of firearms in order to eliminate inefficiency and danger in their necessary use.

31. The reckless use, or wilful misuse, of firearms or any unnecessary force, should be dealt with in respect to prison officers in the same manner as the commission of any other crime.

32. Gun cages in the shops and chapels should be abolished from all institutions except those for incorrigible or habitual offenders.

Recreation

33. Provision should be made for more outdoor physical exercise, on the principles suggested in chapter VIII of this report, with recreational games permitted according to the age and classification of prisoners. Further provision should be made on the same principles for more indoor recreation.

34. Conversation periods in cells should be abolished and provision should be made for conversation during recreation and exercise periods.

35. Visiting and writing privileges should be extended in accordance with the recommendations contained in this report.

36. Provision should be made in proper cases for the distribution of a weekly newspaper in each penitentiary.

Education

37. A complete reorganization of the educational system should be made in accordance with the recommendations contained in chapter VIII of this report, with special consideration for the young offenders, more frequent library privileges, and a simplified system of book distribution.

Medical Service

38. The medical service should be reorganized to eliminate the sources of criticism indicated in this report.

39. After a careful survey of their respective requirements by the Prison Commission, provision should be made for psychiatric services at all penitentiaries.

Religious Services

40. Chaplains should be selected with a special regard to individual adaptability for prison service.

41. Chaplains should be permitted greater freedom in meeting the prisoners and be permitted to communicate with their relatives and to render further assistance than strictly spiritual services.

Prison Employment

42. A complete reorganization of prison industries should be made in all Canadian penal institutions.

43. A thorough survey should be made to discover the requirements of the various government departments and institutions that can be supplied by properly equipped prison industries.

44. The prison work shops should be equipped with the necessary machinery for efficient production and employment of a maximum number of prisoners at productive labour.

45. Trade instructors should be relieved of all custodial duties in order that they may devote their entire time to their instructional duties. Only such trade instructors should be engaged as are equipped by training and experience to teach trades.

46. No goods produced in the prison shops should be sold in the open market in competition with private enterprise.

47. A complete reorganization of the prison farms should be made to bring them up to maximum efficiency and production.

48. A thorough survey of each farm should be made to ensure proper drainage and the reclamation of areas now regarded as waste land.

49. Farm instructors should be agricultural college graduates and have sufficient practical experience to qualify them for these positions.

50. Canning factories should be established at one or more penitentiaries to supply the requirements of the penitentiaries and other government institutions.

51. Dairy herds should be established to supply, where possible, the dairy requirements of the respective penitentiaries.

52. All vegetables required in the penitentiary service should be produced on the penitentiary farms.

53. It should be permissible to supply surplus production to government institutions, and sell the balance in the open market.

Prison Pay

54. Pay for prisoners now provided in Canadian penitentiaries should form the basis of further experiments, and, having regard to the experience of other countries, it should be directed to give reward for industry, measured rather by application and diligence than by volume of production.

Women Prisoners

55. Arrangements should be made with the provincial authorities for the confinement of women prisoners, such as are now incarcerated in the Women's Prison at Kingston, in provincial jails and reformatories for women, and, when such arrangements have been made, the use of the Women's Prison at Kingston Penitentiary should be devoted to other penitentiary purposes.

International Standard Minimum Rules

56. Canadian prisons should, at a minimum, conform in all respects to the standards of the International Standard Minimum Rules.

Amendments to the Criminal Code

57. A complete revision of the Criminal Code should be undertaken at once.

58. Necessary amendments to the Criminal Code should be made to give effect to the recommendations contained in this report.

59. Amendments should also be made to provide for:

(a) Revision of the definition of "vagrancy";

- (b) The embodiment of the principles of the English statutes in regard to allowing time for the payment of fines and imprisonment for the non-payment of fines;
- (c) Further restriction of the sale of offensive weapons;
- (d) Application for leave to appeal to the Court of Appeal *in forma pauperis* in criminal cases;
- (e) Giving power to trial judges to order photographs and finger prints destroyed in cases where the accused is found not guilty and the trial judge believes that this course ought to be taken;
- (f) A uniform instrument to be used in carrying out sentence of the court to whipping;
- (g) A central place of execution in each province.

Prevention of Crime

60. The appointment and discharge of police officers, whether federal, provincial, or municipal, and the administration of police departments should be entirely removed from the suspicion of political influence.

61. A definite system of training police officers along the lines now followed in Great Britain should be adopted in all provinces of Canada.

62. The interest of the public should be enlisted in an organized manner, having regard to the vital importance of the prevention of crime by reducing juvenile delinquency, and the assistance of social service agencies and churches and schools in co-operation with the home should be organized to this end.

63. The responsibility of the state for the financial support of community clubs, boys' and girls' clubs, and leisure time programs should be recognized. They are a means of preventing or, at least reducing, juvenile and adolescent delinquency.

Statistical Information

64. The Prison Commission, in co-operation with the Dominion Bureau of Statistics, should plan a complete revision of the method of preparing statistical information. This revision should be designed to provide statistics that will show the success or failure of prison management and the cost of arresting, prosecuting, maintaining, and supervising prisoners.

65. Provision should be made for uniformity of statistical information in regard to all phases of the administration of the criminal law, including juvenile delinquency, probation, recidivism, etc.

66. Criminal statistics should be extended to show the number of indictable offences reported to the police, as well as the number of charges laid and the number of convictions.

Juvenile and Family Courts

67. The juvenile courts should be reorganized and the Juvenile Delinquents Act be amended in conformity with the policies expressed in chapter XVI of this report.

68. An auxiliary committee of citizens should be organized in connection with each training school for juvenile delinquents to assist in the rehabilitation of the boys and girls who leave such institutions.

69. The principle of family courts, on the lines suggested in chapter XVI of this report, should be adopted.

Adult Probation

70. A probation system, modelled upon the system now in force in England, should be adopted throughout Canada, both for adults and young offenders.

71. Probation officers recruited from the ranks of trained social service workers should be appointed by the courts.

72. The services of such officers should be made available for the preparation of case histories of convicted prisoners and to furnish reports to the presiding judge or magistrate before the accused is sentenced.

73. Probation officers should be given supervision of prisoners who are released on ticket-of-leave and should make the necessary investigations of persons with whom prisoners wish to communicate.

74. The pay and duties of probation officers should be the subject of an agreement between the provincial and federal authorities.

Reports to Sentencing Judges

75. Judges and magistrates should cause reports to be made on prisoners, after conviction and before sentence, in order to determine the nature of the punishment that should be imposed or whether probation would be more effective.

76. All judges and magistrates required to try criminal cases should make periodic visits to the prisons to which they sentence prisoners.

Ticket-of-Leave and Parole

77. The Ticket-of-Leave Act should be amended to give effect to the recommendations contained in this report.

78. The Remission Branch should be abolished, and the services now performed by it should be transferred to the Prison Commission, which will act as a central parole board.

79. A parole officer should be appointed by the Prison Commission in each province or group of provinces, according to population, to investigate applications for parole and make recommendations to the Prison Commission.

80. The administration of the Ticket-of-Leave Act should be definitely and completely removed from any suggestion of political interference.

81. There should be a definite rule that a prisoner who has already violated the conditions of a previous ticket-of-leave should not be permitted further benefit from the Act.

82. When provision is made for a more efficient system of adult probation in Ontario and the administration of the Ticket-of-Leave Act as herein recommended, the provisions of the Reformatories Act providing for indeterminate sentences and parole in Ontario should be repealed.

Remission

83. The rules governing remission of sentence for good conduct should be simplified in accordance with the recommendations contained in chapter XVIII of this report.

Rehabilitation

84. The efforts of the prisoners' aid societies should be co-ordinated in accordance with the principles applied in England and Wales under the authority of the Prison Commission and with a measure of financial assistance from the state.

85. A definite effort should be made to enlist the co-operation of the public in assisting discharged prisoners to find employment and become re-established.

86. Associations similar to the Borstal Association in England should be organized to assist in the rehabilitation of youthful offenders.

87. Certain experiments should be undertaken in selected Canadian institutions, patterned after the English system of voluntary visitors and under strict supervision.

Penitentiary Conditions

88. The Prison Commission should effect the necessary changes to make the discipline and routine in Canadian penitentiaries conform to the recommendations contained in this report, and should take steps to put into effect as soon as possible the detailed recommendations contained in Part III of this report to correct the conditions in the respective penitentiaries.

CHAPTER XXXII

CONCLUSION

In making the recommendations contained in this report, your Commissioners believe that the Government should gradually embody the recommended principles in a well-planned program. It is of first and immediate importance that legislation should be enacted to make provision for a Prison Commission, and that the members of the Commission should be appointed at once.

Upon appointment, the Prison Commission should proceed to form well-ordered plans for selecting officers to fill vacancies. New men should be introduced into the service and the most promising members of the present personnel should be given a course of training. It will be advisable to send a few men to the training school at Wakefield, England, so that the British principles of administration, which form the foundation of this report, may effectively be imported into the Canadian system. A similar course is followed in matters of national defence, and we believe it will be beneficial in matters of prison administration.

Following the reconstruction of the personnel, the principles of this report in respect to the treatment of habitual offenders and young offenders, of classification, parole, probation, and other matters dealt with, will have to be the subject of studied development. Necessary legislation should be carefully considered by the Prison Commission in the light of the recommendations contained herein, as well as such advice as may be tendered by those whose services are temporarily secured to inaugurate the program on a sound basis. Precipitate action without reconstruction of personnel would invite failure, and any failure would jeopardize the necessary improvement of our penal system. On the other hand, it must not be expected that the beneficial effects of the radical changes that have been recommended in this report will immediately be evident, or that such changes will invariably result in the reformation and rehabilitation of all those who find their way into our prisons. There will always be many who are irredeemable. Nevertheless, we must build for the future, and your Commissioners are convinced that, if the task is undertaken with wisdom and courage and prosecuted with patience, diligence, and determination, there is no doubt that success will be achieved, both in its reformative and financial aspects.

Your Commissioners express their appreciation of the great assistance they have received from the staff, and particularly the Secretary, Mr.

Allan J. Fraser, the Assistant Secretary, Mr. John L. Kent, and George E. Shortt, Ph.D., who has been associated with the Commission in its investigation.

We have the honour to be,

Sir,

Your obedient Servants,

J. ARCHAMBAULT,
Chairman.

R. W. CRAIG,
Commissioner.

J. C. McRUER,
Commissioner.

4th April, 1938.

APPENDIX I

INSTITUTIONS VISITED BY THE COMMISSION

FEDERAL INSTITUTIONS

Dorchester Penitentiary.
St. Vincent de Paul Penitentiary, including Laval Buildings.
Kingston Penitentiary, including the Women's Prison.
Collin's Bay Penitentiary.
Manitoba Penitentiary.
Saskatchewan Penitentiary.
British Columbia Penitentiary.

PROVINCIAL INSTITUTIONS

Prince Edward Island

Falconbridge Hospital for Insane.
Kings County Jail.

New Brunswick

Dorchester County Jail, Dorchester.
York County Jail, Saint John.
City Jail, Saint John.
Interprovincial Home for Protestant Women, Coverdale.
The Boys Industrial Home of Province of New Brunswick, East Saint John.
The Home of the Good Shepherd for Roman Catholic Girls, Saint John.

Nova Scotia

County Jail, Halifax.
County Jail, Kentville.
County Jail, Digby.
The Halifax Industrial School for Protestant Boys, Halifax.
St. Patrick's Home for Roman Catholic Boys, Halifax.
The Monastery of the Good Shepherd for Roman Catholic Girls, Halifax.

Quebec

Bordeaux Jail, Bordeaux.
Quebec Jail, Quebec.
St. Jerome Jail, St. Jerome.
Protestant Women's Jail, Montreal.
Roman Catholic Women's Jail, Montreal.
Women's Jail, Quebec.
Protestant Boys Farm and Training School, Shawbridge.

Quebec—Concluded

Verdun Protestant Hospital.
Bordeaux Hospital for Criminal Insane.
St. Jean de Dieu Hospital, Montreal East.
Mont St. Antoine Industrial School, Montreal.
Maison de Lorette, Laval des Rapides.
Juvenile Court and Detention Home, Montreal.

Ontario

Don Jail, Toronto.
District Jail, Sudbury.
Ontario Prison Farm, Burwash.
Ontario Reformatory, Guelph.
Ontario Training and Industrial School for Boys, Bowmanville.

Manitoba

Provincial Jail, Headingly.
Manitoba Home for Boys, Portage la Prairie.
Municipal Jail, Portage la Prairie.
Provincial Jail, Portage la Prairie.
Boys' Clubs, Winnipeg.
Juvenile Court and Detention Home, Winnipeg.
Protestant Girls' Home, Winnipeg.
Home of the Good Shepherd for Roman Catholic Girls, Winnipeg.

Saskatchewan

Provincial Jail, Prince Albert.
Provincial Jail, Regina.
Boys Industrial School, Regina.
R.C.M.P. Barracks, Regina.

Alberta

Provincial Jail, Fort Saskatchewan.

British Columbia

Oakalla Prison Farm, Burnaby.
Provincial Industrial School for Boys, Coquitlam.
Provincial Industrial School for Girls, Vancouver.
City Juvenile Court and Detention Home, Vancouver.

FOREIGN INSTITUTIONS

England

Wormwood Scrubs Prison.
Holloway Women's Prison.
Wandsworth Prison.
Brixton Prison.

England—Concluded

Wakefield Prison.
 Portsmouth Prison.
 Maidstone Convict Prison.
 Dartmoor Convict Prison.
 Oxford County Jail.
 Borstal Collecting Centre at Wormwood Scrubs Prison.
 Rochester Borstal Institution.
 Portland Borstal Institution.
 North Sea Camp Borstal Institution.
 Lowdham Grange Borstal Institution.
 Dockland Settlement, Canning Town.
 Wakefield Training School for Officers.
 Red Hill Approved School for Boys.

Scotland

Edinburgh Prison.
 Barlinnie Prison, Glasgow.
 Women's Prison, Glasgow.

Holland

State Prison, Scheveningen.
 Prison Farm, Assen.
 Boys' Prison, Ameersfoort.

Belgium

Forest Prison, Brussels.
 St. Gilles Prison, Brussels.
 Central Prison, Louvain.
 State Prison, Merxplas.
 Boys' Prison, Hoogstraeten.
 Boys' Institutions (3), Moll.

France

Central Prison, Fresne.
 Central Prison, Poissy.
 La Santé Prison, Paris.
 Central Prison, Melun.
 Central Prison, Caen.
 Approved School, St. Maurice (LaMotte Beuvron).

Germany

Tegel Prison, Berlin.
 Women's Prison, Berlin.
 Convict Prison, Brandenburg.
 Moabit Prison, Berlin.
 Berlin City Rummelsburg Workhouse.

Switzerland

Agricultural Penal Colony, Witzwil.

United States

State Reformatory at Munroe, Washington.
Federal Penitentiary, McNeil Island, Wash.
State Penitentiary, Stillwater, Minn.
State Penitentiary, Stateville, Ill.
Joliet Prison, Joliet, Ill.
State Prison, Sing Sing, Ossining, N.Y.
New York City Prison, Rikers Island, N.Y.
New York City Female Detention Home, New York.
State Reformatory, Wallkill, N.Y.
State Reformatory, Elmira, N.Y.
Federal Penitentiary, Lewisburg, Pa.
Federal Reformatory, Chillicothe, Ohio.
Maryland House of Correction, Jessups, Md.
Eastern State Penitentiary, Philadelphia, Pa.
New Eastern State Penitentiary, Greaterford, Pa.
State Jail, Bordentown, N.J.
New Jersey State Home for Boys, Jamesburg, N.J.
New Jersey State Reformatory, Annandale, N.J.
New Jersey Female Prison Farm, Clinton, N.J.

APPENDIX II

REPORT ON FARMS AT ST. VINCENT DE PAUL, KINGSTON, COLLIN'S BAY, AND SASKATCHEWAN PENITENTIARIES

ST. VINCENT DE PAUL PENITENTIARY FARM

There are 725 acres in the farm operated by St. Vincent de Paul Penitentiary. There are 209.5 acres in hay, 99.1 acres in grain, 33.3 acres in potatoes, and 10.7 acres in vegetables.

The remaining acreage consists of fifty acres of waste land, 132.6 in buildings, roads, yards, and lawns, while 189.7 acres are not operated by the penitentiary, but are rented to private farmers in the district.

There are twenty-six horses on the penitentiary farm, of which five are used by the guards and twenty-one as draught horses on the farm. Two tractors are operated.

In 1936 there were 303 hogs raised and fattened and thirty sows kept.

There are no cattle, sheep, or poultry on the farm. It is necessary, therefore, to purchase all the milk, beef, mutton, and poultry products that are used in the penitentiary.

The small amount of live stock on the farm results in very little manure being produced. If this policy is continued for many years it will impair the productivity of the soil and reduce the crop yields. About sixty tons of hay are sold annually because there is not sufficient stock to consume it. As previously mentioned, 189.7 acres are not operated, but are rented to private farmers.

The reason which is given by prison authorities for not operating the farm to a greater extent is the extensive building operations required on the adjoining new Laval Penitentiary. It is said that additional prisoners can not be spared for farm work outside the prison walls.

There were approximately fifty-three prisoners working on the farm during the summer. Of this number, five were in the piggery, three used for transportation work, and four were in the stables.

Prisoners leave the prison for farm work at 8.15 a.m. and start back from the fields at 11.00 a.m. In the afternoon they start from the prison again at 1.30 p.m. and the fields at 4.45 p.m. They work about two and a half hours in the morning and three hours in the afternoon, or a total of five and a half hours a day. On one day each week two hours are taken off to give the men a shave and bath. On Saturday afternoons the prisoners leave the fields at 4.00 p.m. instead of 4.45 p.m. During fog, or days with poor visibility, no prisoners are allowed on the farm. The hours worked, therefore, are approximately one half that worked by farmers on private farms, and, considering their lack of interest,

ability, and knowledge of farm work, it is clear that at least four prisoners would be required to do the work that one farmer or hired man would normally perform.

According to the attached statistical information supplied by the penitentiary, the farm provided \$9,493.72 out of the total of \$38,575.67, which was spent in 1936 on certain provisions for the prisoners and staff.

The number of prisoners in the penitentiary in 1936 averaged 888, with a staff of eighty-five employees who ate at the penitentiary.

There are a large number of small fields or plots on this farm, possibly as many of forty-five separate areas, on which grain, hay, and vegetables are raised. It would seem desirable to arrange the farm in larger areas in order that the work should be conducted to better advantage, and in order to facilitate the following of a crop rotation. The numerous out-croppings of rock may make such an arrangement difficult, but something could be accomplished in this direction.

More surface and underdrainage could be done to advantage on this farm. The soil is heavy and there is very little natural drainage. The installation of tile drains would enable earlier seeding in the spring and would improve the crop yields.

An additional root cellar should be constructed. The present building is not large enough and has not sufficient ventilation. This results in a heavy loss of vegetables by rotting.

TABLE 1.—ST. VINCENT DE PAUL

| ACREAGES | |
|---|----------------------------|
| Item | Number of acres 1937 |
| <i>Total acreage in farm—</i> | 725 |
| Alfalfa (frozen on account of lack of snow last winter) | |
| Clover (mixed with hay) | |
| Timothy..... | 209.5 |
| Oats..... | 85.7 |
| Barley..... | 6.2 |
| Other grains..... | 7.2 |
| Ensilage corn..... | |
| Corn for shelling..... | |
| Potatoes..... | 33.33 |
| Carrots..... | 0.65 |
| Cabbage..... | 2.38 |
| Onions..... | 1.5 |
| Tomatoes..... | 1.2 |
| Other vegetables..... | 4.41 |
| Mangels..... | |
| Turnips..... | 0.6 |
| Pasture..... | |
| Summerfallow..... | |
| Land in buildings, roads, yards and lawns..... | 132.63 |
| Waste land..... | 50.0 |
| Rented land..... | 189.7 |

TABLE 2.—ST. VINCENT DE PAUL

PROVISIONS FOR PRISONERS AND STAFF—1936-1937

Average Number of Prisoners—888

Number of Staff (eating in penitentiary)—85

| Kind | Purchased | | Produced on Farm | | Total | |
|----------------------|-----------|------------|------------------|-------------|---------|-----------|
| | Amount | Total cost | Amount | Total value | Amount | Value |
| | lb. | \$ cts. | lb. | \$ cts. | lb. | \$ cts. |
| Beef..... | 104,979 | 6,211 11 | | | 104,979 | 6,211 11 |
| Pork..... | | | 581,630 | 5,816 30 | 581,630 | 5,816 30 |
| Veal..... | 3,411 | 307 27 | | | 3,411 | 307 27 |
| Lamb and mutton..... | 992 | 148 26 | | | 992 | 148 26 |
| Poultry..... | | | | | | |
| Eggs..... | doz. | | | | doz. | |
| | 4,380 | 1,151 95 | | | 4,380 | 1,151 95 |
| Butter..... | lb. | | | | lb. | |
| | 21,244 | 4,946 31 | | | 21,244 | 4,946 31 |
| Cheese..... | 8,037 | 1,123 66 | | | 8,037 | 1,123 66 |
| Lard..... | 10,300 | 1,168 71 | | | 10,300 | 1,168 71 |
| Milk..... | 4,738 | 1,137 92 | | | 4,738 | 1,137 92 |
| Cream..... | | | | | | |
| Flour, white..... | bags | | | | bags | |
| | 3,278 | 7,559 40 | | | 3,278 | 7,559 40 |
| Sugar, gran..... | 68,512 | 3,245 26 | | | 68,512 | 3,245 26 |
| | | 26,999 85 | | 5,816 30 | | 32,816 15 |
| <i>Canned Goods</i> | | | | | | |
| | cans | | | | cans | |
| Tomatoes..... | 5,625 | 526 53 | | | 5,625 | 526 53 |
| Corn..... | 1,882 | 163 94 | | | 1,882 | 163 94 |
| Beans..... | 276 | 21 13 | | | 276 | 21 13 |
| Peas..... | 1,891 | 151 94 | | | 1,891 | 151 94 |
| Rhubarb..... | 300 | 101 06 | | | 300 | 101 06 |
| | | 964 60 | | | | 964 60 |

TABLE 3.—ST. VINCENT DE PAUL

VEGETABLES—1936

| Kind | Purchased | | Produced on Farm | | Total | |
|--------------------|-----------|------------|------------------|-------------|------------|----------|
| | Amount | Total cost | Amount | Total value | Amount | Value |
| | bags | \$ cts. | bags | \$ cts. | bags | \$ cts. |
| Potatoes..... | 600 | 1,080 00 | 2,644 | 2,197 85 | 3,244 | 3,277 85 |
| Beets..... | | | 14,417 | 144 17 | 14,417 | 144 17 |
| Cabbage..... | | | 22,263 | 312 65 | 22,263 | 312 65 |
| Corn..... | | | 2,632 | 36 40 | 2,632 | 36 40 |
| Carrots..... | | | 12,700 | 127 00 | 12,700 | 127 00 |
| Turnips..... | | | 16,511 | 165 11 | 16,511 | 165 11 |
| Beans, string..... | | | 5,050 | 151 50 | 5,050 | 151 50 |
| Beans, dry..... | | | | | | |
| B. Sprouts..... | | | | | | |
| Cauliflower..... | | | | | | |
| Celery..... | | | bunch 50 | 1 50 | bunch 50 | 1 50 |
| Cucumbers..... | | | lb. 946 | 13 10 | lb. 946 | 13 10 |
| Lettuce..... | | | bask. 100 | 25 00 | bask. 100 | 25 00 |
| Onions..... | bags 30 | 37 50 | lb. 9,607 | 192 14 | lb. 11,707 | 229 64 |
| Parsley..... | | | bask. 33 | 1 32 | bask. 33 | 1 32 |
| Peas, green..... | | | | | | |
| Peas, dry..... | | | | | | |
| Pumpkins..... | | | lb. 3,859 | 38 59 | lb. 3,859 | 38 59 |
| Radishes..... | | | bunch 177 | 26 55 | bunch 177 | 26 55 |
| Rhubarb..... | | | 660 | 6 60 | 660 | 6 60 |
| Squash..... | | | | | | |
| S. Chard..... | | | lb. 19,859 | 198 59 | lb. 19,859 | 198 59 |
| Tomatoes..... | | | | | | |
| Asparagus..... | | | | | | |
| Peppers..... | | | | | | |
| Spinach..... | | | | | | |
| | | 1,117 50 | | 3,677 42 | | 4,794 92 |

TABLE 4.—ST. VINCENT DE PAUL

SEED—1936

| Kind | Variety | Purchased | | Produced | | Total | |
|----------------------|----------------------|-----------|----------|----------|-------|--------|----------|
| | | Amount | Cost | Amount | Value | Amount | Value |
| | | | \$ cts. | | | | \$ cts. |
| Corn (field)..... | Banner..... bush. | 225 | 162 00 | | | 225 | 162 00 |
| Oats..... | " | | | | | | |
| Barley..... | No. 1..... " | 6 | 8 40 | | | 6 | 8 40 |
| Wheat..... | Irish Cob- | | | | | | |
| Potatoes..... | blers..... bags | 550 | 825 00 | | | 550 | 825 00 |
| Turnips..... | Jumbo..... lb. | 1½ | 0 90 | | | 1½ | 0 90 |
| Carrots, white..... | " | | | | | | |
| Garlic..... | " | 20 | 3 00 | | | 20 | 3 00 |
| Mangels..... | " | | | | | | |
| Parsley..... | " | ½ | 0 35 | | | ½ | 0 35 |
| Beans, navy..... | " | | | | | | |
| Savory..... | " | ½ | 1 25 | | | ½ | 1 25 |
| Beans, string..... | " | 30 | 3 45 | | | 30 | 3 45 |
| Beets..... | Early Wonder | 4 | 2 70 | | | 4 | 2 70 |
| Cabbage..... | Copenhagen..... " | ½ | 0 34 | | | ½ | 0 34 |
| Carrots..... | Marche Fran- | | | | | | |
| | cais..... " | 1 | 0 80 | | | 1 | 0 80 |
| Cucumbers..... | Perfect Davis..... " | ½ | 0 50 | | | ½ | 0 50 |
| Lettuce..... | Grand Rapid..... " | 1 | 1 03 | | | 1 | 1 03 |
| Onions..... | Red and Yel- | | | | | | |
| | low Globe..... " | 5 | 7 95 | | | 5 | 7 95 |
| Parsnips..... | Giant..... " | 1½ | 0 75 | | | 1½ | 0 75 |
| Peas, garden..... | " | | | | | | |
| Radishes..... | Bout Blanc..... " | 4 | 2 40 | | | 4 | 2 40 |
| Squash..... | " | | | | | | |
| Pumpkins..... | Sweet..... " | 1½ | 0 53 | | | 1½ | 0 53 |
| *Tomatoes (seeds)... | Rose June and | | | | | | |
| | Bilou..... " | 1 | 2 63 | | | 1 | 2 63 |
| Corn (sweet)..... | Sunshine and | | | | | | |
| | Bantam..... " | 30 | 3 45 | | | 30 | 3 45 |
| S. Chard..... | | | | | | | |
| Alfalfa..... | | | | | | | |
| Clover..... | Alsike and Red... | 160 | 32 10 | | | 160 | 32 10 |
| Timothy..... | Grade No. 1..... | 250 | 15 63 | | | 250 | 15 63 |
| | | | 1,075 16 | | | | 1,075 16 |

* 2,000 plants supplied by Kingston (none were received here.)

TABLE 5.—ST. VINCENT DE PAUL

FEED FOR LIVESTOCK—1936

| Kind | Purchased | | Produced on Farm | | Total | |
|----------------------------|-----------|------------|------------------|-------------|--------|----------|
| | Amount | Total cost | Amount | Total value | Amount | Value |
| | | \$ cts. | Tons | \$ cts. | | \$ cts. |
| Alfalfa..... | | | 5 | 45 00 | 5 | 45 00 |
| Red Clover and Alsike..... | | | 20 | 120 00 | 20 | 120 00 |
| Timothy..... | | | 150 | 1,200 00 | 150 | 1,200 00 |
| Wild Hay..... | | | | | | |
| Oat Straw..... | | | 60 | 300 00 | 60 | 300 00 |
| Barley Straw..... | | | | | | |
| Corn Silage..... | | | | | | |
| Corn Stover..... | | | | | | |
| Oats, bu..... | 1,501 | 680 03 | 1,045 | 365 75 | 2,546 | 1,045 78 |
| Barley..... | | | 313 | 197 52 | 313 | 197 52 |
| Mixed grains..... | | | | | | |
| Corn shelled..... | | | | | | |
| Turnips..... | | | | | | |
| Mangels..... | | | | | | |
| Carrots..... | | | | | | |
| Bran, bags..... | 291 | 339 38 | | | 291 | 339 38 |
| Shorts, bags..... | 320 | 381 15 | | | 320 | 381 15 |
| Middlings, bags..... | 561 | 778 93 | | | 561 | 778 93 |
| Oil cake..... | | | | | | |
| Gluten feed..... | | | | | | |
| Ready mixed rations..... | | | | | | |
| Calf meal..... | | | | | | |
| Salt, bags..... | 31 | 31 00 | | | 31 | 31 00 |
| | | 2,210 49 | | 2,228 27 | | 4,438 76 |

KINGSTON PENITENTIARY FARM

The total area in the farm operated by Kingston Penitentiary amounts to 365 acres. This year there are 115 acres in hay, eighty in grain, twenty in silage corn, twenty in pasture, thirty-two in garden crops, and sixty acres in summerfallow. Eighty-five acres are said to be waste land.

The live stock at March 31, 1937, comprised:

| | | | |
|------------------------|----|-------------------------------|----|
| Draught horses.. . . . | 15 | Bulls.. . . . | 2 |
| Riding horses.. . . . | 2 | Sows.. . . . | 16 |
| Dairy cows.. . . . | 33 | Boars.. . . . | 1 |
| Young stock.. . . . | 34 | Suckling and fattening pigs.. | 99 |

No sheep, poultry, or beef cattle are kept on this farm. Milk and vegetables are produced in sufficient quantities to supply Collin's Bay Penitentiary, which, in exchange, supplies all the potatoes and some of the hay used at Kingston Penitentiary. No canned fruit or vegetables are produced at the latter institution.

The number of prisoners in Collin's Bay Penitentiary in 1936 averaged 671. Food had to be supplied to these prisoners as well as to the 120 members of the staff who received their meals in the penitentiary.

According to the attached statistical information supplied by the penitentiary management, the farm provided \$7,840.35 out of the total of \$50,030.15 which was spent in 1936 for certain provisions for the prisoners and staff.

To operate the farm there are fifteen draught horses and one 20-30 tractor. The horses perform the farm work and are used also for road work, the quarry, hauling coal and building material, and for other jobs as required.

The number of prisoners delegated for farm work varies with the season. In the early summer there were about forty-five in the farm gang, while in August there were about sixty prisoners. These worked as teamsters, or in connection with the ornamental grounds, garden, dairy, hogs, horse stable, or in the fields.

The hours worked by the prisoners is reported to be as follows:

- 8.15 a.m.—leave prison,
- 9.00 a.m.—arrive at fields,
- 10.45 a.m.—leave fields,
- 11.30 a.m.—return to prison,
- 1.15 p.m.—leave prison,
- 2.00 p.m.—arrive at fields,
- 4.15 p.m.—leave fields,
- 5.00 p.m.—return to prison.

The teamsters eat their lunch near their work outside the prison when required. During July and August this practice is followed by all the field gang. It enables more work to be done at noon, when the men stop at 11.30 a.m. and recommence at 12.45 p.m.

On Saturday the prisoners are given a shave and bath, which delays starting work in the morning by about an hour. On Saturday afternoons the prisoners leave the field at about 3.00 p.m.

If at any time foggy weather prevails and visibility is poor, all the prisoners are kept within the walls of the prison or, if in the fields, are withdrawn.

The dairy gang operate on a different schedule, starting at 6.30 a.m. and finishing at 5.30 p.m.

The farm instructor is the only employee who devotes his entire time exclusively to the farm. He is responsible, under the warden, for the operation of the farm, the direction of the work, and for advising the guards on farm duty what the prisoners in the farm gang are to do each day.

There is very little underdrainage on this farm, and no map is available showing the location and size of the drains already installed. Owing to the occurrence of rock near the surface of the soil on this farm, underdrainage presents difficulties, but there are several fields which could be drained to advantage.

TABLE 6.—KINGSTON

ACREAGES

| Item | Number of acres | |
|--|-----------------|------|
| | 1936 | 1937 |
| Total acreage in farm..... | 365 | 365 |
| Alfalfa..... | 65 | 75 |
| Clover (red)..... | 20 | 20 |
| Timothy..... | | 20 |
| Oats..... | 100 | 70 |
| Barley..... | 10 | 10 |
| Other grains..... | | |
| Ensilage corn..... | 20 | 20 |
| Corn for shelling..... | 2 | 2 |
| Potatoes..... | | |
| Carrots..... | 4 | 4 |
| Cabbage..... | 5 | 5 |
| Onions..... | 3 | 3 |
| Tomatoes..... | 3 | 3 |
| Other vegetables..... | 9 | 9 |
| Mangels..... | 3 | 3 |
| Turnips..... | 3 | 3 |
| Pasture..... | 20 | 20 |
| Summerfallow..... | 40 | 60 |
| Land in buildings, roads, yards and lawns..... | 13 | 13 |
| Waste land..... | 85 | 85 |
| *Less summerfallow..... | 405 | 425 |
| | 40 | 60 |
| | 365 | 365 |

* Deduction of summerfallow as crops produced on this land before summerfallow took place.

TABLE 7.—KINGSTON

PROVISIONS FOR PRISONERS AND STAFF—1936

Average number of prisoners..... 671
 Number of staff (eating in penitentiary)..... 120

| Kind | Purchased | | Produced on Farm | | Total | |
|----------------------|-----------|------------|------------------|-------------|---------|-----------|
| | Amount | Total cost | Amount | Total value | Amount | Value |
| | lb. | \$ cts. | lb. | \$ cts. | lb. | \$ cts. |
| Beef..... | 119,061 | 6,838 54 | 4,131 | 226 01 | 123,192 | 7,064 55 |
| Pork..... | 21,574 | 2,908 44 | 11,457 | 1,125 90 | 33,031 | 4,034 34 |
| Veal..... | 3,979 | 351 87 | 1,646 | 138 03 | 5,625 | 489 90 |
| Lamb..... | | | | | | |
| Poultry..... | doz. | | | | doz. | |
| Eggs..... | 14,261 | 3,377 93 | | | 14,261 | 3,377 93 |
| | lb. | | | | lb. | |
| Butter..... | 10,963 | 2,690 00 | | | 10,963 | 2,690 00 |
| Cheese..... | 6,632 | 881 79 | | | 6,632 | 881 79 |
| Lard..... | 15,559 | 1,636 39 | | | 15,559 | 1,636 39 |
| | gal. | | gal. | | gal. | |
| Milk..... | | | 25,902 | 4,144 08 | 25,902 | 4,144 08 |
| Cream..... | | | | | | |
| | lb. | | | | lb. | |
| Flour..... | 54,400 | 1,317 50 | | | 54,400 | 1,317 50 |
| Pastry sugar..... | 88,000 | 4,191 28 | | | 88,000 | 4,191 28 |
| Bacon..... | 12,689 | 2,587 89 | | | 12,689 | 2,587 89 |
| Flour hard..... | 2,635 | 6,353 40 | | | 2,635 | 6,353 40 |
| Ham smoked..... | 1,132 | 242 83 | | | 1,132 | 242 83 |
| Jam..... | 3,240 | 284 40 | | | 3,240 | 284 40 |
| Liver..... | 3,506 | 301 21 | | | 3,506 | 301 21 |
| Milk pdr..... | 1,000 | 91 14 | | | 1,000 | 91 14 |
| Mutton..... | 3,863 | 279 14 | | | 3,863 | 279 14 |
| Sugar, icing..... | 4,727 | 248 80 | | | 4,727 | 248 80 |
| | | 34,582 53 | | 5,634 02 | | 40,216 55 |
| <i>Canned goods</i> | | | | | | |
| Tomatoes..... | 2,220 | 191 65 | | | 2,220 | 191 65 |
| Catsup..... | 1,172 | 445 61 | | | 1,172 | 445 61 |
| Corn..... | 480 | 41 00 | | | 480 | 41 00 |
| Beans..... | | | | | | |
| Apples..... | 1,380 | 555 06 | | | 1,380 | 555 06 |
| Blueberries..... | 216 | 150 45 | | | 216 | 150 45 |
| Cherries..... | 96 | 10 86 | | | 96 | 10 86 |
| No. 10 cherries..... | 816 | 534 00 | | | 816 | 534 00 |
| Rhubarb..... | 528 | 155 10 | | | 528 | 155 10 |
| Strawberry..... | 147 | 21 70 | | | 147 | 21 70 |
| Tomato puree..... | 624 | 228 49 | | | 624 | 228 49 |
| | | 2,333 92 | | | | 2,333 92 |

TABLE 8.—KINGSTON

VEGETABLES—1936

| Kind | Purchased | | Produced on farm | | Total | |
|--|-----------|------------|------------------|-------------|---------|----------|
| | Amount | Total cost | Amount | Total value | Amount | Value |
| | | \$ cts. | | \$ cts. | | \$ cts. |
| Potatoes..... | 334,160 | 4,379 41 | | | 334,160 | 4,379 41 |
| Beets..... | | | 23,303 | 195 50 | 23,303 | 195 50 |
| Cabbage..... | | | 62,640 | 415 73 | 62,640 | 415 73 |
| Carrots..... | | | 32,000 | 282 50 | 32,000 | 282 50 |
| Corn..... | | | 7,435 | 50 00 | 7,435 | 50 00 |
| Turnips..... | | | 55,130 | 250 40 | 55,130 | 250 40 |
| Beans (string)..... | | | 1,217 | 12 17 | 1,217 | 12 17 |
| Beans (dry.)..... | 12,848 | 416 38 | | | 12,848 | 416 38 |
| B. Sprouts..... | | | | | | |
| Cauliflower..... | | | | | | |
| Celery..... | | | | | | |
| Cucumbers..... | | | 959 | 9 59 | 959 | 9 59 |
| Lettuce..... | | | 432 | 4 32 | 432 | 4 32 |
| Onions..... | 4,018 | 133 61 | 35,770 | 508 35 | 39,788 | 641 96 |
| Parsley..... | | | | | | |
| Parsnips..... | | | 5,360 | 53 60 | 5,360 | 53 60 |
| Peas (split)..... | 1,000 | 39 85 | | | 1,000 | 39 85 |
| Peas (blue)..... | 3,100 | 216 75 | | | 3,100 | 216 75 |
| Pumpkins (tins)..... | 276 | 87 35 | | | 276 | 87 35 |
| Radishes..... | | | 126 | 3 52 | 126 | 3 52 |
| Rhubarb..... | | | 390 | 3 90 | 390 | 3 90 |
| Squash..... | | | | | | |
| S. Chard..... | | | 175 | 1 75 | 175 | 1 75 |
| Tomatoes..... | | | 25,833 | 135 00 | 25,833 | 135 00 |
| Asparagus..... | | | | | | |
| Peppers..... | | | | | | |
| Spinach..... | | | | | | |
| Carrots (white)..... | | | 12,000 | 30 00 | 12,000 | 30 00 |
| Mangels (tons)..... | | | 50 | 250 00 | 50 | 250 00 |
| 19,873 lb. Potatoes. from C.B. Penit..... | | | | | | |
| | | 5,273 35 | | 2,206 33 | | 7,479 68 |

TABLE 9.—KINGSTON

SEED—1936

| Kind | Variety | Purchased | | Produced | | Total | |
|----------------------|----------------------------|-----------|---------|----------|---------|--------|---------|
| | | Amount | Cost | Amount | Cost | Amount | Value |
| | | | \$ cts. | | \$ cts. | | \$ cts. |
| Corn (field)..... | Golden Glow..... | 10 | 10 50 | | | 10 | 10 50 |
| | Improved Leaming..... | | | | | | |
| Oats..... | Banner..... | | | 200 | 120 00 | 200 | 120 00 |
| Barley..... | O.A.C..... | | | 20 | 14 00 | 20 | 14 00 |
| Potatoes..... | | | | | | | |
| Turnips..... | Can. Gem. 1b..... | 5 | 1 05 | | | 5 | 1 05 |
| Carrots (white)..... | White Belgium..... | 2 | 1 30 | | | 2 | 1 30 |
| Mangels..... | Sugar Mangel..... | 20 | 4 00 | | | 20 | 4 00 |
| Beans (navy)..... | | | | | | | |
| Beans (string)..... | Golden Wax..... | 15 | 1 50 | | | 15 | 1 50 |
| Beets..... | Detroit, Red..... | 8 | 4 00 | | | 8 | 4 00 |
| Cabbage..... | Danish Baldhead..... | | | | | | |
| | Jersey Wakefield..... | 1½ | 2 13 | | | 1½ | 2 13 |
| Carrots..... | Danvers..... | 4 | 2 80 | | | 4 | 2 80 |
| Cucumbers..... | Improved ½ long..... | ½ | 0 45 | | | ½ | 0 45 |
| Lettuce..... | Grand Rapids..... | ½ | 0 45 | | | ½ | 0 45 |
| Onion Sets..... | Dutch Sets..... | 400 | 40 00 | | | 400 | 40 00 |
| Parsnips..... | Imp. Guernsey..... | 1½ | 0 60 | | | 1½ | 0 60 |
| Peas (Garden)..... | | | | | | | |
| Radishes..... | Scarlet Globe..... | 1½ | 0 65 | | | 1½ | 0 65 |
| Squash..... | | | | | | | |
| Tomatoes*..... | John Bear..... | ½ | 1 25 | | | ½ | 1 25 |
| Corn (sweet)..... | Bantam and Evergreen..... | 30 | 3 30 | | | 30 | 3 30 |
| S. Chard..... | Dark Green..... | ½ | 0 30 | | | ½ | 0 30 |
| Onion Seed..... | Prize Taker..... | 2 | 2 30 | | | 2 | 2 30 |
| " "..... | Yellow Danver..... | 6 | 9 60 | | | 6 | 9 60 |
| Alfalfa..... | No. 1 Ont. Variegated..... | 120 | 23 40 | | | 120 | 23 40 |
| Clover Red..... | No. 1..... | 10 | 84 00 | | | 10 | 84 00 |
| Timothy..... | No. 1..... | 36 | 22 50 | | | 36 | 22 50 |
| | | | 216 08 | | 134 00 | | 350 08 |

*2,000 plants supplied by Kingston.

TABLE 10—KINGSTON

FEED FOR LIVESTOCK—1936

| Kind | Purchased | | Produced on Farm | | Total | |
|--------------------------|-----------|------------|------------------|-------------|--------|----------|
| | Amount | Total Cost | Amount | Total Value | Amount | Value |
| | | \$ cts. | | \$ cts. | | \$ cts. |
| Alfalfa (tons)..... | | | 62 | 496 00 | 62 | 496 00 |
| Red Clover..... | | | | | | |
| Timothy }..... | | | 100 | 800 00 | 100 | 800 00 |
| Wild Hay } | | | | | | |
| Oat Straw..... | | | 97 | 570 00 | 97 | 570 00 |
| Barley Straw..... | | | | | | |
| Corn Silage..... | | | 120 | 240 00 | 120 | 240 00 |
| Corn stover..... | | | | | | |
| Oats, bush..... | | | 3,500 | 1,295 00 | 3,500 | 1,295 00 |
| Barley..... | | | 878 | 526 80 | 878 | 526 80 |
| Mixed Grains..... | | | | | | |
| Corn (shelled)..... | | | | | | |
| Turnips..... | | | 2,000 | 50 00 | 2,000 | 50 00 |
| Mangels..... | | | 44 | 220 00 | 44 | 220 00 |
| Carrots..... | | | 12,000 | 30 00 | 12,000 | 30 00 |
| Beets..... | | | 5,000 | 12 50 | 5,000 | 12 50 |
| Bran (cwt.)..... | 167 | 184 75 | | | 167 | 184 75 |
| Shorts..... | 63 | 86 45 | | | 63 | 86 45 |
| Middlings..... | 23 | 29 30 | | | 23 | 29 30 |
| Oil Cake..... | 115 | 222 92 | | | 115 | 222 92 |
| Gluten Feed..... | 98 | 138 38 | | | 98 | 138 38 |
| Ready Mixed Rations..... | | | | | | |
| Calf meal, lb. } | 585 | 15 43 | | | 585 | 15 43 |
| Minerals..... } | | | | | | |
| Molasses, gal..... | 81 | 17 53 | | | 81 | 17 53 |
| Salt (bags)..... | 39 | 32 89 | | | 39 | 32 89 |
| Bone meal, lb..... | 150 | 5 63 | | | 150 | 5 63 |
| | | 733 28 | | 4,240 30 | | 4,973 58 |

TABLE 11.—KINGSTON

LIVESTOCK

1936 (March 31, 1937)

| Item | Number |
|-----------------------------|--------|
| <i>Horses—</i> | |
| Draught..... | 15 |
| Riding..... | 2 |
| Driving..... | |
| <i>Cattle—</i> | |
| Dairy..... | 33 |
| Young Stock..... | 34 |
| Bulls..... | 2 |
| <i>Hogs—</i> | |
| Sows..... | 16 |
| Boars..... | 1 |
| Suckling and Fattening..... | 99 |

COLLIN'S BAY PENITENTIARY FARM

There are 876 acres in the farm operated by Collin's Bay Penitentiary. The acreage in crop in 1937 includes 200 acres in hay, 50 acres in oats, 40 in buckwheat, 40 in potatoes, 30 in pasture, and $1\frac{1}{2}$ acres in vegetables, or a total of $361\frac{1}{2}$ acres.

The remaining $514\frac{1}{2}$ acres, which are not under cultivation, include 155 acres in summerfallow, 240 in waste land, 74 in unbroken land including woods, and $40\frac{1}{2}$ acres in buildings, roads, yards, and lawns. It is very probable that quite a percentage of the waste and unbroken land could be placed under cultivation if sufficient labour and equipment were available.

This year there are 16 horses on the farm, 5 of which are used by the guards for saddle horses and 5 for hauling and construction; leaving only 6 horses, or three two-horse teams, for purely farm work.

Up to 1937 there has been only one tractor for use on the farm. During this year a general-purpose row-crop tractor was purchased.

There are no cattle, hogs, sheep, or poultry on this farm. A dairy herd was located here soon after the establishment of the farm but in 1933 it was transferred to Kingston Penitentiary. Hogs were kept for about one year only.

The very small amount of live stock on this farm results in very little manure being produced. The manure produced from the sixteen horses would not exceed 150 tons a year, or an insufficient quantity to cover only about 10 acres of land. Considering the size of this farm it would seem almost essential to increase the amount of live stock in order to maintain and improve the fertility of the soil. The soil being of heavy clay, and a large acreage being devoted to growing potatoes, it would be very desirable to have more manure to improve the tilth of the soil. Commercial fertilizers on this soil are scarcely sufficient alone for the production of potatoes.

Potatoes and some hay are supplied to Kingston Penitentiary and milk and vegetables are received in exchange.

In 1936 the number of prisoners in the penitentiary averaged 193. In addition there were 61 members of the staff who ate in the institution.

According to the attached statistical information supplied by the penitentiary management, the farm provided \$2,490.50 out of the total \$12,835.07 spent in 1936 on certain provisions for the prisoners and the staff.

To operate the farm there are six work horses and two tractors. Up to the middle of this summer there was only one tractor.

There are about 20 prisoners working on the farm, but about 7 of these are employed in connection with the lawns, yards, and garbage. This leaves only 13 prisoners for farm work.

The hours of labour for the prisoners doing farm work is reported to be as follows:

8.00 a.m. — leave cells,
 11.50 a.m. — return to cells,
 1.00 p.m. — leave cells,
 5.00 p.m. — return to cells.

Considering the size of the farm and the fact that the prisoners must be escorted to the fields under guard there would be some time lost in going to and returning from the fields. Twice a week about one hour is lost in the morning for shaving the prisoners.

As there are only about 13 prisoners working on the farm and as approximately four prisoners are equivalent to one hired man working normal hours it is apparent that there is not sufficient labour and equipment to handle this farm properly. With 876 acres in the farm and with 40 acres of this in potatoes it is clear that additional labour and equipment are necessary. The farm instructor is the only employee who devotes his time exclusively to the farm.

There is very little surface drainage and no tile underdrainage done on this farm. Much of the land could be greatly improved by drainage. This would make it possible to reclaim some fields and to increase the crop yields on others.

There are many weeds, and it would be desirable to secure additional labour and equipment to permit of more efficient control. As the land classified as summerfallow is not sufficiently cultivated very little headway is being made in weed control.

TABLE 12.—COLLIN'S BAY
ACREAGES

| Item | Number of Acres | |
|--|-----------------|------|
| | 1936 | 1937 |
| Total acreage in farm..... | 876 | 876 |
| Alfalfa..... | | |
| Clover..... | | |
| Timothy and wild hay..... | 200 | 200 |
| Oats..... | | 50 |
| Barley..... | | |
| Other grains—buckwheat..... | | 75 |
| Ensilage corn..... | | |
| Corn for shelling..... | | |
| Potatoes..... | 40 | 40 |
| Carrots..... | | |
| Cabbage..... | | |
| Onions..... | 1½ | 1½ |
| Tomatoes..... | | |
| Other Vegetables..... | | |
| Mangels..... | | |
| Turnips..... | | |
| Pasture..... | 30 | 30 |
| Summerfallow..... | 180 | 125 |
| Land in buildings, roads, yards and lawns..... | 40½ | 40½ |
| Waste land..... | 240 | 240 |
| Unbroken including wood land..... | 144 | 74 |
| | 876 | 876 |

TABLE 13.—COLLIN'S BAY

PROVISIONS FOR PRISONERS AND STAFF—1936

Average number of prisoners..... 193-2
 Number of Staff (eating in Penitentiary)..... 61-89

| Kind | Purchased | | Produced on Farm | | Total | |
|---------------------|-----------|------------|------------------|-------------|--------|----------|
| | Amount | Total Cost | Amount | Total Value | Amount | Value |
| | | \$ cts. | | | | \$ cts. |
| Beef..... | 46,215 | 2,638 59 | | | 46,215 | 2,638 59 |
| Pork..... | 7,979 | 1,056 63 | | | 7,979 | 1,056 63 |
| Veal..... | 6,225 | 555 30 | | | 6,225 | 555 30 |
| Lamb..... | | | | | | |
| Poultry..... | | | | | | |
| Eggs..... | 5,460 | 1,354 25 | | | 5,460 | 1,354 25 |
| Butter..... | 3,260 | 797 60 | | | 3,260 | 797 60 |
| Cheese..... | 1,778 | 240 73 | | | 1,778 | 240 73 |
| Lard..... | 795 | 106 61 | | | 795 | 106 61 |
| *Milk..... | 78,965 | 1,311 14 | | | 78,965 | 1,311 14 |
| Cream..... | | | | | | |
| Flour..... | 20,779 | 499 00 | | | 20,779 | 499 00 |
| Sugar..... | 19,783 | 929 78 | | | 19,783 | 929 78 |
| | | 9,489 63 | | | | 9,489 63 |
| <i>Canned Goods</i> | | | | | | |
| Tomatoes..... | 1,075 | 225 50 | | | 1,075 | 225 50 |
| Corn..... | 294 | 97 66 | | | 294 | 97 66 |
| Beans..... | 2,827 | 123 33 | | | 2,827 | 123 33 |
| | | 446 49 | | | | 446 49 |

*47,175 lb. milk transferred from Kingston Penitentiary.

TABLE 14—COLLIN'S BAY

VEGETABLES—1936

| Kind | Purchased | | Produced on Farm | | Total | |
|-------------------------|-----------|------------|------------------|-------------|--------|----------|
| | Amount | Total Cost | Amount | Total Value | Amount | Value |
| | | \$ cts. | | | | \$ cts. |
| Potatoes..... | | | 4,816 | 2,408 00 | 4,816 | 2,408 00 |
| *Beets, lb..... | 3,931 | 39 31 | 1,190 | 5 50 | 5,121 | 44 81 |
| *Cababge..... | 8,893 | 74 10 | | | 8,893 | 74 10 |
| *Carrots, lb..... | 4,883 | 48 83 | 990 | 5 50 | 5,873 | 54 33 |
| *Corn, lb..... | 2,235 | 22 35 | | | 2,235 | 22 35 |
| *Turnips, lb..... | 3,930 | 23 01 | | | 3,930 | 23 01 |
| Beans (string), lb..... | | | 120 | 1 50 | 120 | 1 50 |
| Beans (dry)..... | | | | | | |
| B. Sprouts..... | | | | | | |
| Cauliflower..... | | | | | | |
| Celery..... | | | | | | |
| Cucumbers..... | | | 280 | 2 50 | 280 | 2 50 |
| Lettuce, lb..... | | | 900 | 7 50 | 900 | 7 50 |
| *Onions..... | 9,817 | 117 52 | 2,765 | 14 75 | 12,582 | 132 27 |
| Parsley..... | | | | | | |
| *Parsnips..... | 2,534 | 25 34 | | | 2,534 | 25 34 |
| Peas, green..... | | | | | | |
| Peas, dry..... | | | | | | |
| Pumpkins..... | | | | | | |
| Radishes, lb..... | | | 60 | 0 50 | 60 | 0 50 |
| Rhubarb..... | | | 640 | 4 50 | 640 | 4 50 |
| Squash..... | | | | | | |
| S. Chard..... | | | 840 | 7 00 | 840 | 7 00 |
| Tomatoes..... | | | 5,025 | 33 25 | 5,025 | 33 25 |
| Asparagus..... | | | | | | |
| Peppers..... | | | | | | |
| Spinach..... | | | | | | |
| | | 350 46 | | 2,490 50 | | 2,840 96 |

* Transferred from Kingston Penitentiary.

ROYAL COMMISSION

TABLE 15.—COLLIN'S BAY

FEED FOR LIVESTOCK—1936

| Kind | Purchased | | Produced on Farm | | Total | |
|-------------------|-----------|------------|------------------|-------------|--------|----------|
| | Amount | Total Cost | Amount | Total Value | Amount | Value |
| | | \$ cts. | | | | \$ cts. |
| Timothy }..... | | | 73 | 511 00 | 73 | 511 00 |
| Wild Hay }..... | | | | | | |
| Oat Straw..... | | | 27½ | 127 50 | 27½ | 127 50 |
| *Oats, bush..... | 1,001 | 400 63 | 1,188 | 398 35 | 2,189 | 798 98 |
| Bran..... | 2,460 | 35 47 | | | 2,460 | 35 47 |
| Linseed meal..... | 1,088 | 61 68 | | | 1,088 | 61 68 |
| | | 497 78 | | 1,036 85 | | 1,534 63 |

*Transferred from Kingston Penitentiary.

TABLE 16.—COLLIN'S BAY

LIVE STOCK—1936

(March 31, 1937)

| Item | Number |
|-----------------------------|--------|
| <i>Horses—</i> | |
| Draught..... | 12 |
| Riding..... | 4 |
| Driving..... | |
| <i>Cattle—</i> | |
| Dairy cows..... | |
| Young stock..... | |
| Bulls..... | |
| <i>Hogs—</i> | |
| Sows..... | |
| Boars..... | |
| Suckling and fattening..... | |

SASKATCHEWAN PENITENTIARY FARM

1. It is a sound policy that the farm instructor at such an institution should be a graduate of an agricultural college, and, although no complaint is made against the present farm instructor at Prince Albert, it would be most beneficial when changes are made at any future time to employ a suitable graduate for this particular work.

2. The farm instructor should be free at all times to come and go from one duty to another and not be encumbered with the direct responsibility for prisoners doing a certain piece of work.

3. As the farm instructor should be on call if necessary both night and day, it is essential that a house be supplied on the premises where he can be readily available and so that he may be able to visit different sections of the farm and buildings during off hours.

4. Before any plan can be laid out for such a large block of land a soil survey should be made in order to show the quality of soil, the capacity for crop production, and whether or not certain soil elements would prevent growing of certain crops.

5. After a soil survey has been made, and if it proves satisfactory, the entire farm should be cleared and the farthest fields sown down to grasses and legumes to be harvested and used as forage and pasture crops. The choice of forage and legume crops should be selected on the report of the soil survey.

6. Rotation of crops is necessary and, where grass crops and legumes are grown, the rotation would likely be extended, possibly to six years or more. Wheat has very little place, coarse grains should be sown almost entirely, and the size of the fields should be as uniform as possible. Newest and proven varieties should be secured.

The vegetable and garden area should also come into the rotation, but, owing to the long distance from the main building to the end of the farm, it might be that the farm would have to be divided in two and the rotation covering the vegetable and garden crops kept as close as possible from year to year to the main building.

7. There appears to be a very good location for an irrigation project between the road and river in front of the main building. The Department under which prisons are operated should get in touch with the Prairie Farm Rehabilitation authorities and get a water engineer's survey and details as to the possibility of an irrigation system being established by pumping water from the river and allowing it to run over the land at the proper season. This would change the present location of the gardens; but if feasible it would insure all necessary vegetable crops and most likely produce a surplus.

8. Live Stock.

(a) Horses: As new horses are required from time to time, it would be advisable to secure some well bred mares and raise colts, which in turn would become work horses. All fodder gives better returns when run through a cutting box.

- (b) Sufficient hogs are now kept for the institution requirements and the surplus is marketed so that this department seems satisfactory. Rations fed should be according to up-to-date standards.
- (c) Cattle: There are no cattle at present on this farm and, with the acreage available, the raising of cattle should help supply the large quantities of the beef required in the institution, and sometimes there might be a surplus for sale to the packing plants. A herd of dual-purpose Shorthorns, with good grade cows of Shorthorn type and breeding, would supply a double purpose, namely, good milking cows which could be used for the milk supply of the institution, and the calves which could be beefed. By developing a herd that would produce some milk and some beef the institutional requirements could be given first consideration.

A straight dairy herd would not be the best because there would be a poor class of beef when animals were slaughtered, and, on the other hand, unless dairy cattle are very carefully selected and kept down in numbers the surplus milk supply would not be appreciated by local dairy men. Establishment of a herd of cattle would mean the building of a barn, and this would provide more work for the prisoners. Milk can be used in a variety of ways and, if the production is carefully looked after, a surplus should not accumulate.

9. All products from farm production going into the institution should have a fair valuation placed on them. This may be varied every six or twelve months. This would imply that other similar institutions would have the same value placed on their farm produce. In this way, for example, pork from the farm which is used in the institution would form the same cost factor for the same product at "Prince Albert Penitentiary" as at, say "Stony Mountain." The farm instructor's main business is to get his work and production so planned that his volume helps to reduce the costs of the institution, and, at the same time, any disadvantage compared to another institution would be obviated. This may require some revision of the regulations.

APPENDIX III

A SPECIAL STUDY OF RECIDIVISTS IN CANADIAN PENITENTIARIES WHO HAVE OVER TEN CONVICTIONS

The following tables analyse the available data in regard to 188 prisoners confined in Canadian penitentiaries on January 1, 1938, who have been convicted more than ten times:

TABLE 1.—SHOWING THE CRIMES FOR WHICH THESE PRISONERS
HAVE BEEN CONVICTED

| | |
|--|-------|
| Theft.. . . . | 1,057 |
| Breaking, entering and theft.. . . . | 454 |
| Drunkenness and liquor offences.. . . . | 415 |
| Vagrancy, loitering, etc.. | 383 |
| False pretences.. . . . | 265 |
| Miscellaneous offences from breach of Railway Act to perjury and robbery while armed.. . . . | 301 |
| Assault, disorderly, damage to property.. . . . | 215 |
| Receiving and possessing stolen property.. . . . | 113 |
| Escaping.. . . . | 60 |
| Possession of drugs.. . . . | 47 |
| Indecent act, indecent exposure, buggery.. . . . | 44 |
| Carrying offensive weapons.. . . . | 38 |
| Forgery, counterfeiting, and uttering.. . . . | 35 |
| Carnal knowledge, rape, etc.. | 7 |

Total.. . . . 3,434

TABLE 2.—SHOWING THE NUMBER OF CONVICTIONS, WITH THE NUMBER CONVICTED, FOR EACH NUMBER OF TIMES, TABULATED FROM ELEVEN TO SEVENTY-SIX CONVICTIONS

| No. of times convicted | No. of prisoners convicted | No. of times convicted | No. of prisoners convicted | No. of times convicted | No. of prisoners convicted |
|------------------------|----------------------------|------------------------|----------------------------|------------------------|----------------------------|
| 11 | 33 | 21 | 10 | 31 | 1 |
| 12 | 9 | 22 | 6 | 34 | 1 |
| 13 | 21 | 23 | 5 | 36 | 1 |
| 14 | 15 | 24 | 8 | 39 | 1 |
| 15 | 12 | 25 | 3 | 40 | 1 |
| 16 | 7 | 26 | 3 | 44 | 1 |
| 17 | 8 | 27 | 1 | 49 | 1 |
| 18 | 15 | 28 | 3 | 62 | 1 |
| 19 | 10 | 29 | 1 | 74 | 1 |
| 20 | 7 | 30 | 1 | 76 | 1 |

Total: 188 prisoners

TABLE 3.—SHOWING THE NUMBER OF CONVICTIONS, WITH LIQUOR OFFENCES (DRUNK, SELLING, ETC.) EXCLUDED. 159 HAVE OVER TEN CONVICTIONS. THE MAXIMUM IS 68 INSTEAD OF 76 AS IN TABLE II:

| No. of times convicted | No. of prisoners convicted | No. of times convicted | No. of prisoners convicted | No. of times convicted | No. of prisoners convicted |
|------------------------|----------------------------|------------------------|----------------------------|------------------------|----------------------------|
| 3 | 2 | 14 | 17 | 25 | 3 |
| 4 | 1 | 15 | 12 | 26 | 1 |
| 5 | 4 | 16 | 9 | 27 | 1 |
| 6 | 1 | 17 | 9 | 28 | 2 |
| 7 | 6 | 18 | 11 | 29 | 1 |
| 8 | 2 | 19 | 5 | 32 | 1 |
| 9 | 4 | 20 | 6 | 34 | 1 |
| 10 | 9 | 21 | 8 | 37 | 2 |
| 11 | 22 | 22 | 5 | 39 | 1 |
| 12 | 12 | 23 | 2 | 40 | 1 |
| 13 | 17 | 24 | 8 | 68 | 1 |

Total: 188 prisoners.

TABLE 4.—SHOWING THE NUMBER OF CONVICTIONS, WITH BOTH LIQUOR OFFENCES AND CONVICTIONS FOR VAGRANCY AND LOITERING EXCLUDED. 124 HAVE OVER TEN CONVICTIONS

The maximum is 54 instead of 76 as in Table 2

| No. of times convicted | No. of prisoners convicted | No. of times convicted | No. of prisoners convicted | No. of times convicted | No. of prisoners convicted |
|------------------------|----------------------------|------------------------|----------------------------|------------------------|----------------------------|
| 2 | 3 | 14 | 17 | 24 | 5 |
| 3 | 2 | 15 | 11 | 26 | 1 |
| 4 | 1 | 16 | 7 | 27 | 2 |
| 5 | 6 | 17 | 7 | 28 | 1 |
| 6 | 5 | 18 | 10 | 34 | 1 |
| 7 | 10 | 19 | 5 | 36 | 1 |
| 8 | 7 | 20 | 8 | 37 | 1 |
| 9 | 16 | 21 | 3 | 39 | 1 |
| 10 | 14 | 22 | 3 | 54 | 1 |
| 11 | 9 | 23 | 4 | | |
| 12 | 13 | | | | |
| 13 | 14 | | | | |

Total: 188 prisoners

TABLE 5.—SHOWING THE AGES, AT THE TIME OF THEIR FIRST OFFENCE

| Age at first offence | Number of this Age | Age at first offence | Number of this age | Age at first offence | Number of this age |
|----------------------|--------------------|----------------------|--------------------|----------------------|--------------------|
| 8 | 2 | 20 | 11 | 34 | 2 |
| 9 | 3 | 21 | 10 | 35 | 3 |
| 10 | 3 | 22 | 12 | 36 | 1 |
| 11 | 4 | 23 | 7 | 37 | 3 |
| 12 | 11 | 24 | 4 | 38 | 1 |
| 13 | 1 | 25 | 3 | 40 | 2 |
| 14 | 4 | 26 | 4 | 42 | 2 |
| 15 | 9 | 27 | 5 | 43 | 1 |
| 16 | 23 | 28 | 4 | 44 | 2 |
| 17 | 17 | 29 | 1 | 48 | 1 |
| 18 | 12 | 30 | 1 | 50 | 1 |
| 19 | 13 | 31 | 1 | 51 | 1 |
| | | | | Not given | 3 |

Total: 188 prisoners

Total 16 and under—60 or 32% of 185.

Total 18 and under—89 or 47% of 185.

Total 23 and under—142 or 77% of 185.

Total over 28—43 or 14% of 185.

TABLE 6.—HABITS AND STATUS OF THE PRISONERS

DRUG ADDICTION

Drug addicts.. . . . 32 out of 188, or 17%

EMPLOYMENT

Employed at time of last conviction.. . . . 37 out of 186, or 20%

EDUCATION

Education above common school.. . . . 22 out of 186, or 12%

Education above high school.. . . . 3 out of 186, or 1½%

MARITAL STATUS AND DEPENDENTS

Number married.. . . . 65 out of 188, or 35%

Number widowers.. . . . 12 out of 186, or 6%

Number with dependents.. . . . 47 out of 186, or 25%

Number single.. . . . 109 out of 186, or 59%

Total number of dependents.. . . . 100

CANADIAN BORN

Number of Canadian born.. . . . 154 out of 186, or 83%

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INDEX

Accounting System

- Complicated and restrictive, 24, 29-31
- Description, 40-43
- Recommendations *re*, 175

After Care

- Borstal Association, 208-210
- Employment after discharge, 264
- Financial support for societies engaged in, 251, 258, 260, 261, 263
- For young offenders, 197, 361
- International rules, 165, 250
- Necessity for, 8, 10, 197, 210, 249, 250
- Penitentiary regulations *re*, 251-252
- Principles of, 250, 257-258, 259-260
- Prison pay for, 252-255
- Prison visitors, 260-263
- Provision for in Great Britain, 206, 257-263
- Public attitude to discharged prisoners, 10, 217, 263, 264
- Recommendations *re*, 252, 263, 264, 361
- Unsatisfactory provision in Canada for, 165, 166, 252

Alberta Penitentiary

- Closing of, 151
- Revenue, 127, 128

Alberta, Province of

- Attorney-General of, 50, 51, 152, 153, 154, 155
- Courts, 50, 51
- Jails in, 21-22
- Probation in, 22
- Refusal to accept insane prisoners, 152-155
- Treatment of juveniles in, 22, 185, 194

Allan, R. M. (Warden, Kingston Penitentiary), 289-290, 292, 293

Ameersfoort Prison (Holland), 206

Anderson, Harry W., 1

Andrieux, Rene, 5

Annandale Reformatory, 80, 207

Archambault, Hon. Justice Joseph, 1

Atkins, James (Chief Keeper, Kingston Penitentiary), 290

Atlanta Penitentiary, 132

Aylesbury Borstal Institution, 202

Bates, Sanford (Executive Director of Boys' Clubs of America, Inc.), 4, 5, 342

Bathing and Shaving

- Inadequate provision for, 24, 66, 311
- Metal mirrors, 66
- Safety razors, 66

Behan, Sam, 75, 76

Belgium, Penal System of

- Corporal punishment, 60
- Habitual offenders, 218, 221, 223
- Industries, 131
- Prison école, 206
- Prison farm, 211-212
- Prison pay, 143
- Visits and conferences, 4, 5, 204, 367

Bennett, James V., (Director, Federal Bureau of Prisons), 4, 5, 6

Big Brothers' and Big Sisters' Association, 180

Biggar, O. M., 1

Bixby, F. Lovell, 6

Bond, Leonard, 244

Bordeaux Jail, 19, 135

Borstal System

- Adoption in Canada, 49-50, 198, 199-200, 210, 355
- Borstal Association, 208-209
- Development of, 200-202, 209, 218
- Description of Borstal institutions, 31, 202-205
- Sentences to Borstal institutions, 201-202
- Staff of Borstal institutions, 203-204, 207
- Training and Treatment, 200, 202-203, 204-205, 207, 209, 210
- Voluntary visitors, 204

Boys' Clubs of America, Inc., 5, 342

Breton, M., 5

British Columbia Penitentiary

- Buildings and grounds, 16, 332
- Chaplains and religious services, 336
- Classification, 334-335
- Discipline, 72, 332-333
- Education and library, 119, 336-337
- Establishment, Location and Territory served, 12, 16
- Hospital and medical services, 335-336
- Industries, Farm, and Production, 127-128, 333
- Kitchen and Steward, 335
- Population, 16, 335
- Recreation, 333-334
- Staff, 16, 35, 332-333
- Warden and senior officers, 337

British Columbia, Province of

- Institutions, 22, 366
- Legislation *re* juveniles, 184
- Modified Borstal unit recommended for, 210, 356

Buck, Timothy, 52, 74, 75, 81-97

Buckley, J. W., 87, 97

Buildings and Grounds of Canadian Penitentiaries

- Construction methods, 128
- Damaged by riots and disturbances, 69-72
- General Characteristics, 22.

Burwash Industrial Farm, 20, 244-246

Calvert, Roy, 264

Camp Hill Prison, 202, 221

Canadian Bar Association, 167, 169

Canadian Welfare Council, 183, 185

Canteens in Prison

- Not approved, 68

Capital Punishment

- Not included in reference, 2
- Place of execution, 171
- Previous study of methods of, 2

Carter, William, 50-51

Cass, E. R., 6

Catholic Prisoners' Aid Society, 257

Catholic Young Workers, *see* La Jeunesse
Ouvriere Catholique

Caudri, W. P., 5

Cells

- Lighting poor, 67, 163
- Outside cells preferable, 22
- Punishment cells not dungeons, 22

Censorship

- Criticism of, 23, 272, 336

Central Association for Aid of Discharged

- Convicts, 257, 258, 263

Central Discharged Prisoners' Aid Society, 259, 260**Centralization of Penal System**

- Advantages of, 106, 340, 341, 342
- In England, 341, 342
- Need for, 340-341
- Recommended, 342, 354

Chelmsford Prison, 106

Chief Constables Association, 240-241

Children's Aid Society, 183

Church Army, 257

Church of England Temperance Society,
257

Civil Service Commission, 34, 264, 330

Classification

- Classification boards, 45, 46, 49, 103, 104,
114, 115, 275, 326-327, 334-335
- International rules *re*, 162
- Lack of, 17, 23, 102, 103, 104
- Misleading information *re*, 49-50
- Necessity for, 10, 23, 54, 100, 101, 102,
103, 106, 162, 289, 342, 356
- Principles of, 100-103, 105, 106

Coal Shortages, 52, 298-301, 309

Coleman, E. H., (Under Secretary of
State), 3, 325

Collin's Bay Penitentiary

- Buildings and grounds, 14, 15, 22, 303-307,
309
- Discipline, 70
- Education and library, 118, 306, 311

Collin's Bay Penitentiary—*Con.*

- Establishment, Location, and Territory
served, 12, 14, 22, 104, 105, 302-303,
308
- Hospital and medical services, 306
- Industries, Farm, and Production, 127-
128, 381-384
- Population, 15, 104, 303-304
- Recommendations *re*, 307
- Recreation, 310
- Staff, 15, 35-36, 310
- Stores practices, 42
- Warden and senior officers, 104, 309-310

Concerts and Lectures

- As privilege, 107
- Borstal system, 203
- Need for, 118, 120
- Not sufficient, 23, 269
- Regulations *re*, 112

Conference of Prison Commissioners of the British Empire, 3-4

Cooper, W. H., (Warden, Saskatchewan
Penitentiary), 329-330

Cooperative Commonwealth Federation,
88, 96

Cornil, Paul, 5

Corporal Punishment

- Abuses in administration, 23, 47, 61, 164,
275
- For special purposes, 69-72, 189-190
- Instrument used, 61, 171
- International rules *re*, 164-165
- Recommendations *re*, 61, 356, 359
- Regulations *re*, 59, 61
- Use in other countries, 60

Correspondence

- Fountain Pens, 66
- International rules *re*, 164
- Present practice *re*, 24, 60, 164, 255, 256-
257, 272

Courts

- Appeals *in forma pauperis*, 169, 359
- Conduct and proceedings, 8, 187-188
- Cost of conviction, 216
- Destruction of fingerprints, 170, 359
- Family Courts, 190-192, 360
- Habitual Offenders before, 219-224
- Indeterminate sentence, 244-247
- Insane before, 149, 155, 157
- Investigation and advice to, 103, 227,
228, 360
- Judges should visit prisons, 360
- Jurisdiction of magistrates, 167
- Juvenile Courts, 175, 179, 182-185, 186-
189, 190, 191-192, 359
- Juveniles before, 182-183
- Prisoners on remand, 163
- Public defenders, 169
- Recidivists before, 211, 212
- Suspended sentence, 225-230
- Time for payment of fines, 167-168, 359
- Trial of penitentiary inmates by Crimi-
nal Courts, 69-72, 74-77, 81-83

Courts—Con.

Young offenders before, 196, 200-201

Cox, William J., 6

Craig, W. H., (Warden, Collin's Bay Penitentiary), 52, 84, 88-95, 97, 298-300, 309

Crime and Criminals

Cost of crime, 174-175, 216, 217, 359

Criminology, 7

Effect of physical defects, 120

Increase in crime, 174, 212-213

Prevention of crime, 8, 145, 173-174, 359

Punishment of criminals, 8, 9, 54, 228

Statistics *re*, 173, 174-175, 229, 359

Types of, 9, 10, 211-215, 218

Women in crime, 145-148

Criminal Law

Criminal Code *re* insane prisoners, 149

Criminal Code *re* sentence to penitentiary, 156, 157, 339, 342

Criminal Code, Need for revision of, 167-171, 342, 358

Definition, Object, and Constitution, 7, 156, 157, 173

Not fully effective, 174, 178

Provisions for conditional release, 226-227

Dartmoor Prison, 106, 108, 111

Dawson, J. D., (Inspector of Penitentiaries), 3, 52-53, 84, 88-93, 97, 266, 300-301

Department of Justice

Deputy Minister, 3, 40, 152, 153, 154

Minister, 1, 25, 34, 36, 37, 40, 48, 50, 59, 80, 81, 87, 88, 95, 96, 97, 235, 236, 237, 284, 302, 303, 343

Penitentiary Branch, 3, 25-26, 29-31, 32, 34, 40-43, 44, 71, 126-127, 128, 135-136, 137, 138, 265-266, 267, 273-274, 281, 284-286, 287-288, 309, 312, 314-315, 317, 319-320, 322-323, 342-344, 354

Remission Branch, 3, 103, 235, 236, 237-241, 242-243, 360

Departmental Committee on Employment of Prisoners, 129, 131, 134, 140

Departmental Committee on Persistent Offenders, 11, 220, 223

Departmental Committee on Treatment of Young Offenders, 145, 186-187, 189-190

Deputy Minister of Justice, 3, 40, 152, 153, 154, 343-344

Deroche, Judge, 74-77, 81-83

Dillon, G. A., (Purchasing Agent for Penitentiaries), 298-300

Discharge Clothing, 24, 255

Dominion Bureau of Statistics, 173, 174, 212

Dorchester Penitentiary

Buildings and grounds, 12-13, 265, 267

Chaplains and religious services, 271

Classification, 270

Discipline, 69, 267

Dorchester Penitentiary—Con.

Education and library, 118-119, 271-272

Establishment, Location and Territory served, 12

Hospital and medical services, 270-271

Industries, Farm, and Production, 30-31, 127-128, 268-269

Kitchen and Steward, 270

Population, 13

Recreation, 269-270

Staff, 13, 35, 267-272

Warden and senior officers, 267-268

Ward for women, 312

Dormitories, 22, 162

Douglass, Robert S., (Deputy Warden, B.C. Penitentiary), 337

Downey, Joseph Patrick, 1

Downs, A. H. (Jr.), 38

Draper, P. M., 1, 134

Drug Addicts

Cannot be cured, 159, 160

Disturb prison discipline, 159, 160

Should be segregated, 161

Eaton, T., Company, Ltd., 269

Edinburg Prison, 205

Education

At Borstal institutions, 203

Inmate instructors, 117

Misleading reports *re*, 50, 118, 119

Recommendations *re*, 119-120, 357

Regulations *re*, 114, 118, 164, 165, 297

Schoolrooms, 115, 116, 119, 271, 296, 329

School teachers, 114, 115, 116, 119, 272, 297, 311, 329

Should include trade and hygiene instruction, 115, 116, 297

University and correspondence courses, 116, 275, 282, 283

Unsatisfactory in penitentiaries, 23, 114, 115, 116, 118, 119, 272, 282, 283, 296-297, 311, 320-321, 329, 337

Voluntary teachers, 117, 118, 119

Edwards, W. Stuart, (Deputy Minister of Justice), 3, 343-344

Ellis, William J., 6, 340

Employment in Penitentiaries

Costly construction for, 128

Farm, 138

Industrial, 130

Insufficient, 23, 126, 290-291

International rules *re*, 163

Necessity of, 126, 128, 134, 139, 144

Other countries, 131-133, 211

Principles of, 129, 135

Reorganization of, 357, 358

Types of, 129-133, 135-136, 140

England, Penal System of

After-care, 257-260

Board of Visitors, 60, 65, 344

Borstal System, 200-209

Centralization of, 341

Classification, 102, 105, 106, 107, 108

Corporal punishment, 60

England, Penal System of—*Con.*

- Education, 117-118
- Employment, 129, 131, 134
- Habitual offenders (Recidivists), 209-210, 214, 215, 218-222, 223-224
- Home Office Schools, 193
- Prison Commission, 4, 5, 342-343
- Prison pay, 142, 224
- Probation, 225-226, 229
- Recreation and exercise, 110-111
- Regulations, 57-58, 60, 66
- Remission, 232
- Staff training and discipline, 39-40, 345-349
- Unofficial prison visitors, 260-262

Etherington, Frederick, 1**Exercise and Physical Training**

- Games, 23, 109-110, 111, 203, 269, 292, 334, 357
- Insufficient, 23, 109, 110, 111, 357
- International rules *re*, 163-164
- Regulations *re*, 110

Family Courts, 190-192, 360**Federal Prison Industries, Inc., 132-133****Federated Charities, 180****Feltham Borstal Institution, 202****Fines, Time for Payment of, 167-168, 359****Fingerprints and Photographs, 170, 359****First Offenders**

- Institutions intended for, 283-286, 302-310
- Need for segregation, 102, 104, 105

Fiset, J. A., (Teacher-Librarian, St. Vincent de Paul), 282-283**Food and Diet**

- Kitchens, Storerooms, etc., 270, 279, 293, 327-328, 335
- Quality and preparation, 23, 163, 270, 279, 293, 319, 327
- Stewards, 270, 279, 293-294, 327
- Supervision of diets, 121, 163

Fort Saskatchewan Jail, 21, 154, 155, 171, 366**France, Penal System of**

- Approved schools, 204, 206-207
- Corporal punishment, 60
- Habitual offenders, 218, 222
- Industries, 131
- Prison pay, 143
- Visits and conferences, 4, 5, 367

Gallagher, M. F., (Chief of Remission Branch), 3, 235, 236, 237-238, 242-243**Garceau, Albert, 75, 76****Germany, Penal System of**

- Corporal punishment, 60
- Habitual offenders, 221, 223
- Prison pay, 143
- Production, 131
- Visited, 4, 5, 367

Gladstone Committee (England), 11, 101, 102, 139, 218**Glasgow Prison, 205****Glueck, Sheldon, 176****Goad, G. T., (Warden, Dorchester Penitentiary), 267-268****Goodwin, Harold, 50-51****Grades and Merit System, 106-108, 356****Grievances of Prisoners**

- Board of Visitors to hear, 344, 355
- Need for outlet, 65, 165, 344
- No outlet for, 33, 62, 64
- Part in riots at Kingston Penitentiary, 74-79

Grosse Isle, 223**Guthrie, Hon. Hugh, (Minister of Justice), 284****Habitual Offenders *see* Recidivism****Harding, John, 120****Headingley Jail, 21, 171****Hewart, Lord, 249****Hobbies, 24, 113-114, 324****Holland, Penal System of**

- Habitual offenders, 218-221
- Industries, 131
- Prison pay, 143
- Visited, 4, 5, 367
- Young offenders, 204, 206

Home Office School, Red Hill, Surrey, 193**Hoogstraeten Prison Ecole, 206****Hoover, Herbert, 180****Hopkins, E. S., 137, 369-384****Humphries, I. A., 247****Hughes, W. S., 268, 284, 302****Imprisonment, Effect of**

- Adverse influences, 54-55, 100, 101, 109, 112, 250, 340-341
- Intended, 9, 10, 100
- Futile without after-care, 249

Indeterminate Sentences, 244-247**Insane**

- Criminal Code *re*, 149
- Disputes with provinces *re*, 151-158
- Medical, not penal problem, 149, 156
- Objections to federal institutions for, 151, 158
- Penitentiary Act *re*, 150, 155, 156, 157, 158
- Recommendations *re*, 150-151, 158
- Should be removed from prisons, 105, 120, 149, 150, 151, 158, 356
- Treatment before courts, 149, 155, 157

Inspectors of Penitentiaries

- Dawson, J. D., 3, 52-53, 84, 88-93, 97, 266, 300-301
- Insufficient inspections, 32-33
- Not consulted by Superintendent, 26, 32, 52
- O'Leary, E. L., 3, 52-53
- Sauvant, G. L., 3, 52-53, 266, 277

International Penal and Penitentiary Commission, 5, 162**International Standard Minimum Rules, 74, 162-166, 358****Interprovincial Home for Women, Coverdale, 18**

- Jails**
 Criticism of, 16-17
 Short terms in, 18
 Women in, 146
- Jeunesse Ouvrière Catholique** *see* La Jeunesse Ouvrière Catholique
- John Howard Society of British Columbia**, 251, 252
- Jurisdiction of Dominion and Provinces**
 Criminal Code *re*, 339, 342
 Need for revision, 342, 354
Re insane prisoners, 149-153
Re juvenile delinquents, 175, 183
Re penal institutions, 3, 12, 16, 104, 339-340, 342
Re youthful offenders (Borstal), 210
- Juvenile Courts**
 Development of, 182-185
 Guidance Clinics for, 179, 183, 186, 190
 Juvenile Court age, 185, 188, 189
 Principals and procedure, 8, 175, 186-188
 Probation, 184, 185, 186, 190
 Re-organization recommended, 359
 Use as family courts, 191-192
- Juvenile Delinquents**
 Before adult courts, 18, 182-183, 189
 Causes of delinquency, 175, 176, 179
 Foster homes for, 194
 Institutions for, 18-22, 189, 192-194
 Jurisdiction over, 3, 175
 Legislation *re*, 182-185
 Prevention of delinquency, 8, 145, 178-181, 359
 Probation for, 184, 185, 186, 190
 Statistics *re*, 175, 176, 180, 192
 Treatment of, 8, 176, 179, 182, 185, 189-190
- Kingsley, Father W. T.**, (Chaplain, Kingston Penitentiary), 296
- Kingston Penitentiary**
 Buildings and grounds, 14, 287-288
 Chaplains and religious services, 296
 Classification, 292-293
 Coal shortages, 52, 298, 301
 Discipline, 288-289
 Education and Library, 118, 293, 296-298
 Establishment, Location, and Territory served, 12, 13, 14
 Former insane ward, 150
 Former women's prison, 312
 Hospital and medical services, 80, 294-295
 Industries, Farm, and Production, 127-128, 290-291, 291-292, 375-381
 Investigations at, 1, 2
 Kitchen and Steward, 293-308
 Population, 14, 304, 307-308
 Punishments at, 44-48
 Recreation, 111, 292
 Riots at, 36, 48, 69-70, 74-97
 Staff, 14, 34-35, 288-289
 Stores practices, 41-42, 43
 Warden and senior officers, 46, 75, 76, 82, 104, 289, 290, 300
- Kirkland, Murray**, 74, 75, 76, 77, 82, 83
- Knights of Columbus**, 180
- La Jeunesse Ouvrière Catholique**, 180, 181, 251, 252
- Lapointe, Hon. E.**, (Minister of Justice), 284, 302, 303
- Laval Buildings**
 Buildings and grounds, 13, 22, 284-286
 Establishment and purpose, 13, 21, 273, 283-284
 Location and Territory served, 12, 286
 Staff, 286
 Warden, 52, 84, 88-95, 97, 298-300, 309
- Lawson, W. S.**, (Chief Engineer of Penitentiaries), 3, 304
- League of Nations**, 162
- Learmonth, C. M.**, 137, 385-386
- Leavenworth Penitentiary**, 132
- "Les Loisirs,"** 181
- Lethbridge Provincial Jail**, 22
- Libraries, Books, and Periodicals**
 Books and book selection, 23, 66, 107, 108, 115, 116, 119, 283, 297, 298, 321
 Censorship, 272, 336
 International rules *re*, 164
 Libraries, 116, 119, 271, 272, 283, 297-298, 311, 321, 329, 336
 News and newspapers, 23, 109, 113, 164, 250, 269, 357
- Lighting**, 67, 163
- Lowdham Grange Borstal Institution**, 202, 204
- Lushington, Sir Godfrey**, 9, 101
- MacDonnell, George M.**, 1
- Madden, Judge**, 86
- Maidstone Prison**, 106, 108, 142
- Manitoba Penitentiary**
 Buildings and grounds, 15, 317
 Chaplains and religious services, 320
 Classification, 319
 Discipline, 70-72, 317
 Education and library, 320-321
 Establishment, Location, and Territory served, 12, 15
 Hospital and medical services, 151-153, 319-320
 Industries, Farm, and Production, 127-128, 318
 Kitchen and Steward, 319
 Population, 15
 Recreation, 318-319
 Staff, 15, 35, 317-318
 Warden, 70, 71, 317
- Manitoba Prisoners' Aid Association**, 251
- Manitoba, Province of**
 Attorney-General, 153, 159-161
 Brief *re* drug addicts, 159-161
 Courts, 70
 Institutions of, 21, 366
 Legislation *re* juveniles, 184
- Masten, Judge**, 244
- Maxwell, Alex**, 129, 250
- McCormick, Austin**, 4, 6

- McDonald, Michael**, 86, 88
McMahon, Bryan, 4
McRuer, J. C., 1
Meath, Earl of, 226
Medical Services
 Control of, 121
 Dental Services, 120, 270, 281, 295
 Dietary Control, 121
 Effects of physical defects, 120
 Hospitals, 24, 121, 270, 280, 294-295, 319-320, 327, 336
 Medical Officers, 24, 120, 121, 270-271, 280, 294-295, 326-327, 335
 Psychologists and psychiatrists, 120, 121, 163, 357
 Re-organization recommended, 357
Megloughlin, W. B., (Former Warden of Kingston Penitentiary), 289, 292
Meighen, William, (Warden, B.C. Penitentiary), 337
Mercer Reformatory, 20
Mercier, Honore, 340
Merxplas Prison Farm, 211
Methodist Prison Committee, 257
Middleton, Judge, 244, 246, 247
Miller, Justin, 4
Mimico Reformatory, 20
Minnesota State Prison, 132
Montreal Jail for Women, 19
Morris Coal Co., 301
Mott, Judge H. W., 229
Muir, G. W., 137, 371-384
Muller, Emil, 5
National Association of Prison Visitors, 261, 262, 264
National Federation of Boys' Clubs, 180
Neelands, C. F., 124, 246, 247
New Brunswick, Province of
 Institutions of, 17, 18, 365
 Treatment of juveniles, 184
New Westminster Penitentiary *see* British Columbia Penitentiary
New York State Reformatory, Elmira, 120
Nickle, W. F., 1
Northeastern Penitentiary, Lewisburg, 132
North Sea Camp, 202, 205
Nova Scotia, Province of
 Institutions of, 17, 18, 365
 Legislation re juveniles, 184
Oakalla Prison Farm, 22
O'Leary, E. L., (Inspector of Penitentiaries), 3, 52-53
Ontario, Province of
 Board of Parole, 243, 246, 247
 Borstal unit for, 210
 Courts, 191, 228, 244, 246, 247, 248
 Indeterminate Sentences in, 16, 243-248
 Institutions of, 17, 20-21, 366
 Legislation re juveniles, 185
 Probation in, 227-229, 231
Ontario Reformatory, Guelph, 20, 135, 138, 244
Ormond, D. M., *see* Superintendent of Penitentiaries
Osborne Association, 4
Parkhurst Prison, 106
Parole and Ticket-of-Leave
 Administration of, 235, 236, 237, 241
 Parole officers, 243, 360
 Practice in granting, 237-241, 243, 360
 Purpose of, 239, 243
 Recommendations re, 239, 240, 243, 360
Paterson, Alexander, (Prison Commissioner, England), 4, 5, 355
Paterson, H. B., (Teacher - Librarian, Kingston Penitentiary), 296-298
Penitentiary Act
 Appointment of Commission under, 1
 Provisions for insane, 150, 156, 157, 158
 Provisions for Penitentiary Branch, 25
 Provisions for punishment, 46-47
 Provisions for reformation, 100
 Provisions for remission, 231
 Provisions for reports, 48-49
 Provisions for sentence to penitentiaries, 339
 Provisions for wardens, 25-26
Penitentiary Branch
 Accounting policies, 40-43
 Centralized control, 26, 29-31, 32, 44
 Circular letters, 29-31, 42, 265
 Construction methods, 42, 128, 265, 266, 267, 273-274, 284-286, 287-288, 303-307, 309, 312, 314-315, 317, 319-320, 322-323
 Correspondence of, 29-31, 126-127, 265-266, 281, 295
 Farm control, 136, 137, 138
 Inspectors, 3, 26, 32-33, 52-53, 84, 88-93, 97, 266, 277, 300-301
 Lack of co-operation, 26, 31, 32, 44, 71, 126, 127, 135-136, 137
 Officers, 3, 25-26, 34
 Prison Commission and re-organization, 342-344, 354
 Superintendent, 3, 26-31, 32, 34-40, 43-51, 53, 71, 72, 77-79, 80-81, 84, 86-89, 93, 95-97, 103, 118, 119, 126-127, 198, 199, 252, 292, 3-4, 344, 352-353
Penitentiary Farms
 Buildings, drainage, etc., 138
 Dairy herds and livestock, 138, 358
 Employment and instruction, 126, 138
 Inefficiently operated, 23, 30-31, 126-127, 136, 137, 138
 Particular farms, 268-269, 278, 291-292, 318, 325, 333, 369-386
 Possibilities of, 23, 138, 358
 Recommendations re, 138-139, 358
Penitentiary Officers
 Attitude toward prisoners, etc., 62, 64, 109, 123, 292, 310
 Dismissal of, 33-40, 355
 Employment, hours, etc., 23, 34, 39-40, 318, 324-325, 331, 332, 345, 352-353

Penitentiary Officers—Con.

- Heard by Commission, 4, 352
- Housing of, 266-267, 287, 310, 317
- Reconstruction of personnel, 344-353, 354, 362
- Remuneration, 1, 119, 350-352, 353, 355
- Staffs of penitentiaries, 13-16, 34, 112, 270, 310
- Superannuation, 352
- Trade instructors, 126, 135, 138, 268, 291, 357
- Training and discipline of, 24, 48, 54, 99, 165, 197, 217, 274, 279, 288-289, 293, 323-325, 332, 345-349, 353, 354, 356, 362
- Use of firearms by, 74, 79-81, 84-99, 165, 356

Penitentiary Population

- Average population at penitentiaries, 13-16
- Cost of maintenance, 216
- Discipline of, 54-68
- Effect of present methods, 54-55, 61-62
- Entitled to protection of law, 48
- Heard by Commission, 2, 4
- Types of, 106, 215, 216, 217, 250, 274, 275-276

Penitentiary Regulations

- Comparison with international rules, 162-166
- Criticism of, 23-29, 44, 66-68, 113-114, 138, 274, 290
- Need for revision, 54, 66, 99, 355
- Objects of, 54
- Offences provided by, 23, 54, 55-57, 66, 99
- Re* after care, 251-252, 253, 254
- Re* chaplains and religious services, 122, 125
- Re* education, 114, 118
- Re* physical activities, 110-111
- Re* prison pay, 141
- Re* recreation, 110, 111
- Re* remission, 231-232, 233, 235
- Re* visits and communications, 255-257
- Violations of, 37-38, 44-48, 307, 311

Penology

- Principles and problems of, 7
- Interest in, 341

Piuzé, P. A., (Former Warden, St. Vincent de Paul), 275-277

Platt, A. G., (Medical Officer, Kingston Penitentiary), 294, 295

Polemont Borstal Institution, 205

Police

- Attitude toward parole, 240-241
- Cost of, 175
- Employment and discharge, 173, 359
- Retention of fingerprints and photographs by, 170
- Training and effectiveness, 8, 173

Poll, Maurice, 5

Portland Borstal Institution, 202, 205

Preventive Detention

- In other countries, 219-223
- Need for, 218-219, 223, 224
- Treatment during, 223-224

Price, Leonard, 46-48, 74, 79-81, 84

Prince Albert Provincial Jail, 21

Prince Edward Island, Province of

- Institutions in, 17, 18, 365
- Treatment of juveniles, 184

Prison Commission for Canada

- Advantages, 342, 343, 344, 362
- Composition of, 121, 343, 354
- Duties, 114, 121, 235, 263, 342, 344, 353, 360, 361, 362

Prison Courts

- Criticisms of, 23, 46-47, 61-62, 63-64, 164, 275, 290
- International rules *re*, 164
- Offences and convictions in, 64, 275
- Problem of, 61-62
- Practice and procedure, 62-65
- Recommendations *re*, 64-65, 356

Prison Discipline

- Criticism of present methods, 23, 54, 67, 274-275, 276-277, 290
- Grades and merit system, 106-108
- Minimum privileges, 108
- Offences and punishments, 55-60
- Principles of, 54, 62, 64-65, 106, 107
- Prison pay as aid to, 139
- Recommendations *re*, 356
- Recreation as aid to, 111, 112, 292
- Sketches and hobbies, 67-68, 113-114, 324
- Smoking and conversation, 23, 66, 67, 78, 128, 135
- Special classes, 105, 108, 159, 223-224
- Use of informers, 323-324

Prison Industries

- Canning factories, 138
- Competition with outside labour, 130, 134
- Decline in production and revenue, 127-128, 135
- Disposition of products, 130-136, 357, 358
- In other countries, 131-133
- Particular penitentiaries, 268, 277-278, 318, 325, 333
- Provincial institutions, 19-22, 135
- Recommendations *re*, 130-136, 357, 358
- Shops, 130, 357
- Trade instruction, 23, 50, 51, 115, 116, 119, 126, 135-136, 139, 203, 268, 291, 293
- Trade instructors, 126, 135, 138, 268, 291, 357

Prison Pay

- Disposal of, 139, 141, 252-255
- Incentive of, 58, 139, 140, 144
- On discharge, 252-255
- Principles of, 139, 140, 141, 142
- Rates and systems of, 23, 140, 141, 142, 144, 163, 224
- Recommendations *re*, 144, 358
- Regulations *re*, 141, 253, 254

Prison Punishments

- Comparison with England, 59, 60
- For rioting, etc., 69-73
- Improper and illegal, 44-48, 61-62, 63
- Injustice in, 61-62, 63
- International rules *re*, 164-165
- List of, 58-60.
- Too frequent and severe, 274-275

Prisoners' Aid and Welfare Association of Montreal, 251, 252**Prisoners' Rehabilitation Society, 251****Prisoners' Welfare Committee of the Regina Welfare Bureau, 251****Probation**

- Abuses of, 229
- Canadian practices, 226-229
- Development of, 225-229
- For youths and juveniles, 22, 184, 185, 186, 190, 196, 197
- Instead of indeterminate sentence, 248
- Principles of, 225, 229-230
- Probation officers, 226, 227, 230, 231, 360
- Recommendations *re*, 227, 230-231, 360
- Use in crime prevention, 8, 217, 225, 226, 229, 230

Protection of Society

- Basis of penal system, 8
- Basis of recommendations, 354
- Divided jurisdiction *re*, 3
- Principles, 8, 9

Provincial Prison Farms

- Compared to penitentiary farms, 136, 137
- Description of, 20, 22

Public Defender, 169**Quebec, Province of**

- Borstal unit recommended for, 210
- Courts, 169, 222
- Institutions of, 17, 19, 365-366
- Legislation *re* juveniles, 183-184

Queen's University, 283**Recidivism**

- Causes of, 10, 215, 217, 249
- Classes of, 211-212
- Confirmed, 213-215
- Cost of, 215, 216-217
- In Canadian penitentiaries, 215, 216, 387-388
- Increase in, 213-214, 249, 250
- Preventive detention, 218-224
- Recommendations *re*, 222-223, 362
- Segregation of incorrigibles, 100, 105, 355
- Treatment of, 8, 9, 11, 105, 218-224
- Vagrants, 211-212
- Youths, 209-210, 212, 213

Recreation

- Concerts and lectures, 107, 112, 117-118, 120, 203, 269
- Hobbies, 113-114, 324
- Indoor, 24, 107, 109, 269, 310
- Insufficient, 112, 318, 325
- Musical instruments, 289
- Purpose and use of, 108, 109, 111
- Radio, 112-113, 269, 311, 334

Recreation—Con.

- Regulations *re*, 110, 111
- Sports, 23, 109-110, 111, 203, 269, 292, 334, 357

Reed, Stanley, 4**Reformation and Rehabilitation**

- Favourable prison influences, 101, 108, 115, 123, 124-125, 139
- Favourable outside influences, 225, 228, 230, 249, 263-264
- International rules *re*, 163
- Lack of favourable influences, 23, 100, 217, 274
- Necessity for, 8, 9-10, 100, 101, 228
- Regulations *re*, 54, 100
- Unfavourable influences, 10, 24, 101, 104

Reformatories and Industrial Schools

- Advantages of, 16, 17, 105
- Classification in, 104, 105, 199
- Inadequacies of, 199-200
- In Canada, 17-22
- Indeterminate sentences to, 244-246
- Population of, 199, 244-246

Regina Provincial Jail, 21**Religion in Penitentiaries**

- Chapels, 271, 273, 275, 282, 296, 356
- Chaplains, 24, 121-122, 123, 124, 195, 271, 282, 296, 320, 328, 336, 357
- International rules *re*, 164
- Objects of, 271, 273, 275, 282, 296, 356
- Regulations *re*, 24, 122, 125, 357
- Religious literature, 115, 119, 123, 125
- Unsatisfactory, 123

Remission

- Consecutive sentences, 234
- Duplication, 235
- Practices, 59-60, 106, 139, 141, 231-233, 234, 235, 238-241
- Principles of, 231, 234
- Recommendations *re*, 232, 233, 235, 361
- Remission Branch, 3, 103, 235, 236, 237-241, 242-243, 360
- Remission by royal prerogative, 235-236
- Statutory remission, 231-235

Remission Branch

- Chief officer, 3, 235, 236, 237
- Control of Ticket-of-Leave, 236
- Criticism of, 235, 237-241, 242-243
- Principles to be followed, 237-240
- Secretary of State Remission Branch, 235
- To be abolished, 360
- Visits of officer to institutions, 242-243

Riots and Disturbances

- Kingston Penitentiary, 36, 52, 74-97
- Recent, 69-73
- St. Vincent de Paul Penitentiary, 69, 98-99

Rochester Borstal Institution, 202, 207**Rotary Club, 209****Rowell, Chief Justice, 244****Roy, Father, 181****Royal Canadian Mounted Police, 44, 170, 174, 236, 343**

Royal Commission

- Conferences, hearings, and inspections, 1, 2, 3, 4, 5, 365-368
- Members, ii
- Memoranda and reference materials, 3, 4, 5, 7, 389-408
- No examination of individual cases of dismissal, 33-34, 36
- Recommendations of, 217, 354-362
- Secretary at, ii, 363

Royal Military College, 52**Ruggles-Brise, Sir Evelyn, 208****St. Maurice Approved School 207****St. Vincent de Paul Penitentiary**

- Buildings and grounds, 13, 273-274
- Chaplains and religious services, 121, 181-182
- Classifications, 278-279
- Discipline, 69, 98-99, 274-275
- Education and library, 118, 282, 283
- Establishment, Location and Territory Served, 12-13
- Hospital and medical services, 280-281
- Industries, Farm, and Production, 127-128, 277, 278, 369-374
- Kitchen and Steward, 279
- Population, 13
- Staff, 13, 35, 52
- Store practices, 41-42, 43
- Warden and senior officers, 52-53, 275-277

Salvation Army, 122, 211, 251, 257, 269**Samuel, Sir Herbert, 226****Saskatchewan Penitentiary**

- Buildings and grounds, 15, 16, 322-323
- Chaplains and religious services, 328-329
- Classification, 104, 325-327
- Discipline, 72, 323-324
- Education and library, 119, 329
- Hospital and medical services, 328
- Industries, Farm and Production, 127-128, 325, 385-386
- Insane prisoners at, 153-155
- Kitchen and Steward, 327
- Population, 16
- Recreation, 325
- Staff, 16, 35, 323, 324, 325, 331
- Warden and senior officers, 104, 323, 324, 329-331

Saskatchewan, Province of

- Department of Agriculture, 137
- Institutions, 21, 366
- Legislation *re* juveniles, 185

Sauvant, G. L., (Inspector of Penitentiaries), 3, 52-53, 266, 277**Scotland, Penal System of**

- Borstal system, 205-206
- Visited, 4, 204, 367

Scott, Harold, (Chairman, Prison Commission, England), 4, 5, 221**Segregation**

- Lack of, 16, 17, 276, 292
- Necessity for, 10, 45, 65, 101, 102, 120, 323-324
- "Preferred class" experiments, 283-286, 302-310
- Principles of, 102
- Provisions in England for, 102
- Special classes requiring, 162, 218, 222-223, 355, 356

Sentences

- Death sentence, 171
- Indeterminate, 16, 243-248, 361
- Lack of uniformity in, 169-170
- Sentence to whipping, 170-171
- Separation of jurisdiction by, 3, 12, 16, 339, 341
- Short sentences useless for youths, 197
- Special sentences for habituals, 11, 218-224, 355
- Suspended, 226-227

Sherwood Borstal Institution, 202**Simon, Sir John, 168****Smith, Gilbert, 77, 78, 79, 289****Social Agencies**

- After-care work by, 251, 257-263, 361
- Boys' and Girls' Clubs, 5, 145, 179, 180
- Co-ordination of, 179, 181, 251, 263, 361
- Financing, 251, 359, 361
- Handicaps to, 251, 252
- Particular agencies, 4, 6, 251, 252, 257, 258, 259, 260, 261, 262, 263, 264, 269, 342
- Religious agencies, 123-124
- Work with juveniles, 8, 176, 179-181, 193

Sowards, James & Co., 298-300**Sullivan, George, (Deputy Warden, Kingston Penitentiary), 290, 293****Superintendent of Penitentiaries**

- Action *re* disturbances, 71, 72, 77-79, 80-81, 84, 86-89, 292
- Dictatorial methods, 26, 28-29, 44, 45
- Dismissal of officers, 34-40
- Duties of, 25-26
- Evidence of, 3, 28, 29, 37-38, 47, 51, 84, 89, 93, 97, 304
- Improper treatment of prisoners, 44-48
- Installation of "eight-hour-day," 352-353
- Lack of co-operation, 26-28, 32, 51, 53, 252
- Misleading reports by, 48-50, 80, 95-97, 118, 119, 198, 199
- Prison Commission to replace, 342-344
- Retirement recommended, 51
- Time devoted to details, 29-31, 32, 51, 126-127

Suspended Sentence, 225-230**Ticket-of-Leave and Parole**

- Administration of, 235, 236, 237, 241
- Parole officers, 243, 360
- Practice in granting, 237-241, 243, 360
- Purpose of, 239, 243
- Recommendations *re*, 239, 240, 243, 360

Toc H, 209, 258**Toronto District Labour Council, 87**

Toronto Municipal Farm, Langstaff, 20
Toronto Regional Labour Council of the
Co-operative Commonwealth Fed-
eration, 88, 96

Trade Instruction

At Borstal institutions, 203
 Misleading information *re*, 50, 51
 Restricted, 126, 135-136
 Trade instructors, 126, 135, 138, 268, 291,
 357
 Unsatisfactory, 23, 115, 116, 119, 126, 268,
 291, 293
 Use of waste materials, 136

United States Industrial Institute for
Women, Aldison, 132

United States, Penal System of

Bureau of Prisons, 5, 6
 Corporal punishment, 60
 Federal Prison Industries, Inc., 132-133
 Industries and employment, 132-133
 Institutions, 4, 5, 6, 207, 368
 Juvenile Courts, 187
 Lack of centralization, 340-341
 Medical services, 121
 Prison Pay, 143-144
 Recreation and exercise, 110
 Treatment of habitual offenders, 218, 222

United States Southwestern Reformatory,
El Reno, 132

United Synagogue Discharged Prisoners'
Aid Society, 257

Vagrancy

Dutch and Belgian methods of dealing
 with, 211-212
 Need for revision of definition, 167, 358
 Need for special treatment, 211-212

Van der Aa, 5

Veenhuizen Prison Farm, 211

Visitors, Board of

Duties, 344
 Prison offences, 60
 Recommended, 344, 355

Visits and Visitors

Criticism of present rules *re*, 24, 60, 250,
 255-256, 257
 Criticism of present quarters for, 24, 255-
 256
 Importance of, 255
 International rules *re*, 164
 Metal detectors, 256
 Use of, 60, 107, 255

Wakefield Prison, 106, 107, 142, 345-349,
354, 362

Wallkill Reformatory, 207

Watson, John A. F., 262

Wood, Arthur D., 4

Women Offenders

Provincial institutions for, 18, 19, 20, 21,
 145
 Should be in reformatory, 148, 316, 358
 Small proportion of criminal population,
 145-148
 Transportation costs, 314-316
 Treatment of, 145, 165, 315, 316
 Women in penitentiaries, 145-148, 312,
 314, 316

Women's Prison

Buildings and grounds, 14, 22, 314-315
 Censorship at, 315
 Cost, 312, 313, 314
 Education, 315
 Establishment, Location, and Territory
 Served, 12, 14, 287, 312
 Population, 14, 145, 146, 147, 312, 313
 Recommendations *re*, 148, 316
 Should be used for other purposes, 145,
 291-292, 316, 358
 Staff, 14, 315

Wormwood Scrubbs Prison, 202, 204, 208,
210, 261, 366

Young Offenders

After-care for, 197, 210
 Before the courts, 145, 196-197, 200, 210
 Borstal system, 199, 200, 202-206, 209, 210,
 355
 European systems of treating, 206-207
 Grades System for, 325-326
 Inadequate treatment in Canada, 118,
 197, 198, 199, 200, 270, 273, 278, 279,
 292-293, 319, 325-326, 334
 Misleading information *re* treatment of,
 49-50, 197, 198, 199
 "Preferred Class" penitentiaries, 283-284,
 302-303
 Probation of, 195-197, 199-200
 Recidivism of, 209-210, 212-213
 Segregation of, 102, 104, 105, 197, 217
 Training of, 195, 200, 278
 United States, 207-208

Young Men's Christian Association, 180,
181

BINDING SECT. OCT 30 1975

Government
Publications

